

1 **LAW OFFICES OF RONALD**
2 **A. MARRON**
3 RONALD A. MARRON (SBN 175650)
4 651 Arroyo Drive
5 San Diego, California 92103
6 Telephone: (619) 696-9006
7 Facsimile: (619) 564-6665

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10 *Attorney for Plaintiffs and the Proposed Class*

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14 **UNITED STATES DISTRICT COURT**
15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 CYNTHIA HAMMOCK, SHERRY
17 BENTLEY and LINDA LOVE, on
18 behalf of themselves, all others
19 similarly situated, and the general
20 public,

21 Plaintiffs,

22
23 NUTRAMARKS, INC.;
24 NUTRAPURE, INC., and
25 NUTRACEUTICAL
26 CORPORATION,

27 Defendants.

28 Case No.: **'15CV2056 BTM NLS**

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiffs Cynthia Hammock, Sherry Bentley, and Linda Love (“Plaintiffs”) by
 2 and through their attorneys of record, bring this action on behalf of themselves, all
 3 others similarly situated, and the general public, against Defendants NutraMarks, Inc.,
 4 NutraPure, Inc., and the Nutraceutical Corporation. (collectively “Defendants”).

5 **INTRODUCTION**

6 1. Defendants are the manufacturers and distributors of NatraBio®
 7 homeopathic products that are falsely and deceptively labeled in that the products do
 8 not work as advertised. This complaint concerns Defendants’ NatraBio® homeopathic
 9 products known as “Smoking Withdrawal,” “Leg Cramps,” “Restless Legs,” “Cold
 10 and Sinus Nasal Spray,” “Allergy and Sinus,” “Children’s Cold and Flu,” and “Flu
 11 Relief Spray.” (collectively the “NatraBio® Products”).

12 2. Defendants deceptively market the NatraBio® homeopathic products by
 13 claiming that the products can provide relief from a variety of ailments— everything
 14 from colds, flus, allergies, pain, tobacco cravings, and leg cramps. However,
 15 Defendants do not disclose to consumers that the purported “active ingredients” in the
 16 NatraBio® products are so diluted that they are virtually non-existent. As a matter of
 17 established scientific principle, the NatraBio® products cannot possibly be inherently
 18 effective at providing relief for any type of symptoms in any human being. Indeed, the
 19 NatraBio® products are essentially just hyper-diluted “sugar pills.” They work no
 20 better than a placebo.

21 3. Additionally, Defendants market the NatraBio® Products as “Natural
 22 Homeopathic Medicine” made from “all natural” ingredients. However, several of the
 23 NatraBio® Products contain one or more artificial or synthetic ingredients.

24 **JURISDICTION AND VENUE**

25 4. This Court has original jurisdiction pursuant to 28 U.S.C. §1332(d)(2), as
 26 amended by the Class Action Fairness Act of 2005, because the matter in controversy,
 27 exclusive of interest and costs, exceeds the sum or value of \$5,000,000 and is a class
 28 action in which some members of the Class of Plaintiffs are citizens of states different

1 than Defendants. Further, greater than two-thirds of the Class members reside in
 2 states other than the state in which Defendants are incorporated or have their principal
 3 places of business.

4 5. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)
 5 because Plaintiff Hammock and Plaintiff Bentley are residents of California, Plaintiff
 6 Love is a resident of Florida, Defendants maintain their principal places of business in
 7 Utah, and the matter in controversy exceeds the sum or value of \$75,000, exclusive of
 8 interest and costs.

9 6. In addition, this Court has original jurisdiction over the federal claim
 10 under the Magnuson-Moss Warranty Act pursuant to 28 U.S.C. § 1331.

11 7. This Court has supplemental jurisdiction over the state law claims
 12 pursuant to 28 U.S.C. §1337.

13 8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because
 14 many of the acts and transactions, including some of the purchases and sales giving
 15 rise to this action, occurred in this district and because Defendants (i) are authorized to
 16 conduct business in this district, (ii) have intentionally availed themselves of the laws
 17 and markets within this district through the promotion, marketing, distribution and
 18 sale of their products in this district; (iii) do substantial business in this district; (iv)
 19 advertise to consumers residing in this district, and (v) are subject to personal
 20 jurisdiction in this district.

21 THE PARTIES

22 9. Plaintiff Cynthia Hammock is a resident of Lemon Grove, California who
 23 purchased Defendants' NatraBio® "Smoking Withdrawal" Product.

24 10. Plaintiff Sherry Bentley is a resident of Sacramento, California who
 25 purchased Defendants' NatraBio® "Leg Cramps" and "Restless Legs" Products.

26 11. Plaintiff Linda Love is a resident of Middleburg, Florida who purchased
 27 Defendants' NatraBio® "Cold and Sinus Nasal Spray," "Allergy and Sinus,"
 28 "Children's Cold and Flu Relief," and "Flu Relief" Products.

1 12. Defendant Nutraceutical Corporation is a Delaware corporation that
 2 maintains its principal place of business at 1400 Kearns Blvd. 2nd Floor, Park City,
 3 Utah 84060. Defendant Nutraceutical corporation is a manufacturer and distributor of
 4 the NatraBio® products. According to its website, Nutraceutical Corporation acquired
 5 the NatraBio® brand in 2007. The NatraBio® product line is part of Nutraceutical
 6 Corporation’s “Nature’s Cures Collection” of products.¹

7 13. Defendant NutraMarks, Inc. is a Delaware corporation that maintains its
 8 principal place of business in Park City, Utah. Defendant NutraMarks, Inc. is a
 9 manufacturer and distributor of the NatraBio® products and is the owner of the
 10 NatraBio® trademark. According to trademark records, Defendant NutraMark, Inc.
 11 maintains its principal place of business at 1500 Kearns Boulevard, Suite B-200, Park
 12 City, Utah 84060. The NatraBio® website is owned and operated by Defendant
 13 NutraMarks, Inc.² Moreover, Defendant NutraMarks, Inc. has admitted in a recent
 14 court pleading that it is a “wholly-owned subsidiary of Nutraceutical Corporation and
 15 owns the trademark rights and assets used by Nutraceutical Corporation.”³

16 14. Defendant NutraPure, Inc. is a Delaware corporation that maintains its
 17 principal place of business at 1500 Kerns Boulevard, Ste. B-200, Park City, Utah
 18 84060. Defendants NutraPure, Inc. and NutraMarks, Inc. share the same address.
 19 Based on information and belief, Defendant NutraPure, Inc. is involved in the
 20 advertising, marketing, distribution, and sales of the NatraBio® products. According
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25 ¹ <http://www.nutraceutical.com/collections/natures-cures/>

26 ² See NatraBio.com/terms-condition/ (“This website, and the various content, features
 27 and services offered on this website (collectively, the ‘Site’), is owned and/or operated
 by and/or used under license from NutraMarks, Inc.”).

28 ³ See Complaint, Dkt. No. 2, *Nutraceutical Corp. v. Provide Nutrition, LC*, No. 2:15-
 cv-00579-BCW (D. Utah Aug. 7, 2015).

1 to an SEC filing made by Defendant Nutraceutical Corporation, Defendant NutraPure,
 2 Inc. is a subsidiary of Nutraceutical Corporation.⁴

3 **Agency**

4 15. At all times herein mentioned, Defendants, and each of them, were an
 5 agent or joint venturer of each of the other Defendants, and in doing the acts alleged
 6 herein, were acting within the course and scope of such agency. Each Defendant had
 7 actual and/or constructive knowledge of the acts of each of the other Defendants, and
 8 ratified, approved, joined in, acquiesced and/or authorized the wrongful acts of each
 9 co-Defendant, and/or retained the benefits of said wrongful acts.

10 **Aiding and Abetting**

11 16. Defendants and each of them, aided and abetted, encouraged and rendered
 12 substantial assistance to the other Defendants in breaching their obligations to
 13 Plaintiffs and the Classes, as alleged herein. In taking action, as particularized herein,
 14 to aid and abet and substantially assist the commissions of these wrongful acts and
 15 other wrongdoings complained of, each of the Defendants acted with an awareness of
 16 its primary wrongdoing and realized that its conduct would substantially assist the
 17 accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.

18 **Alter Ego Liability**

19 17. Defendants and each of them, are alter egos of the others to the extent that
 20 there is such a unity of interest and ownership that the individuality, or separateness,
 21 of the defendants has ceased and adherence to the fiction of the separate existence of
 22 Defendants would sanction a fraud or promote an injustice. In addition to the fact that
 23 Defendant Nutramarks and Defendant Nutrapure share an office location, all
 24 Defendants use the corporate form as a mere shell, instrumentality, or conduit for a
 25 single venture of the business.

26
 27 ⁴See Nutraceutical SEC Form 10-K For the Fiscal Year Ended September 30, 2014,
 available at
 28 www.sec.gov/Archives/edgar/data/1050007/000104746914009431/a2222200zex21_1.htm

FACTUAL BACKGROUND

The NatraBio® Products

18. The NatraBio® brand was first launched in 1979 and was acquired by Defendant Nutraceutical Corporation and its named Defendant subsidiaries in or around 2007. Defendants claim that “the NatraBio® brand believes that homeopathic medicines provide one of the most natural and effective for the treatment of illness, the relief of symptoms and the maintenance of good health.”⁵



19. When NatraBio first started, the company sold homeopathic remedies in tincture jars that were designed to “stimulate the body’s healing mechanism.”

Bio	Dyspepsia	Recommended by Medical Doctors, Chiropractors, Naturopaths and Homeopaths	Urhea
tio	Earache	Natra-Bio Remedies Are Designed To Promote Healing. Natra-Bio remedies are full strength homeopathic formulas. They contain minerals, tissue salts, and herbs to stimulate the body's healing mechanism. Natra-Bio remedies are 100% natural and contain no sugar of any kind.	Cramps
Indigestion	Nausea		Fervousness
Bio	Prostate	Natra-Bio Remedies Are Guaranteed Effective. If you are not satisfied with the results from Natra-Bio remedies, return the unused portion to the place of purchase for a full refund.	Bio
cation	Nat	Natra-Bio Remedies Are Available At Leading Health Food Stores. If your store does not carry Natra-Bio Remedies you may order direct for the suggested retail price of \$5.95, and get a free Treatment Index by Dr. Alan Nittler M.D.	dache
tra-Bio	Fe	Call 1-800-421-7105. Visa and MasterCard Accepted. In California Call (213) 393-2753.	Natra-Bio
Bio	Menstru	NATRA-BIO 1427½ Santa Monica Mall, Santa Monica, CA 90401	rhitis
Constipation			morrhoids

Natra-Bio Advertisement in *Mother Jones Magazine*, April 1982.

⁵ <http://www.natrabio.com/about-us/>

1 20. Through clever marketing efforts of Defendants, the NatraBio® line is
2 now deceptively designed to mimic conventional over-the-counter medicines.
3 NatraBio® now has an entire range of products “from fully medicated compressed
4 tablets that melt in the mouth to liquids, cough syrups, throat and nasal sprays, and
5 topical creams.” Defendants contend that all of the NatraBio® homeopathic products
6 “are formulated to provide fast acting symptom relief and to be a natural alternative
7 for every medicine cabinet.”

8 21. Defendants' advertising of the NatraBio® products is also more
9 suggestive and claims that the products can alleviate a variety of symptoms from
10 ailments like colds, flus and allergies. For example, Defendants' website claims that
11 NatraBio® makes "natural products for all of your cold and flu needs."



Screenshots from Natrabio.com

1 22. Defendants' comprehensive marketing scheme makes NatraBio a well-
 2 recognized brand in many retail stores. But Defendants know that the NatraBio®
 3 Products cannot live up to the promised advertising and are aware of the fact that all
 4 credible scientific evidence shows that homeopathy is ineffective. Defendants have
 5 only one goal in mind—reaping enormous profits from unwary consumers.

6 **History of Homeopathy**

7 23. Homeopathy was invented in the late 18th Century by a German Physician
 8 named Samuel Hahnemann.⁷ Homeopathy seeks to stimulate the body's ability to heal
 9 itself by giving very small doses of highly diluted substances. However, there is
 10 "little evidence" that homeopathy is effective, much less that people understand
 11 homeopathic dilution principles.⁸

12 24. Homeopathy is premised on two main principles; the principle of similars
 13 and the principle of dilutions. Under the "principle of similars" a disease can be cured
 14 by a substance that produces similar symptoms in healthy people. Thus, homeopathic
 15 drugs are intended to work by causing "aggravation," or a temporary worsening of
 16 symptoms initially, a fact that is not communicated to consumers.

17 25. Under the "principle of dilutions" the more diluted an ingredient is, the
 18 more effective it becomes.⁹ However, there is a very low probability that even a
 19 single molecule of the original substance is present in the Products. For example, a
 20 typical homeopathic treatment is diluted to a level of around 30x. This means there is
 21 one molecule of the substance in a million trillion trillion (10^{30}) molecules of water.
 22 At that dilution level, one would need to drink 8,000 gallons of water to get one
 23 molecule of the substance. Some homeopathic solutions contain a dilution level of 30c

24 25 26 27 28 ⁷ See *Samuel Hahnemann: German physician*, ENCYCLOPEDIA BRITANNICA ONLINE,
 available at <http://www.britannica.com/EBchecked/topic/251691/Samuel-Hahnemann>.

8 See *Homeopathy: An Introduction*, NATIONAL CENTER FOR COMPLEMENTARY AND INTEGRATIVE HEALTH, available at nccam.nih.gov/sites/nccam.nih.gov/files/homeopathy.pdf.

9 *Id.*

1 (100³⁰). But there is not enough water in the solar system to accommodate that
 2 dilution level.¹⁰

3 26. Homeopathy was invented before modern knowledge of molecular
 4 science, which is completely inconsistent with the homeopathic principal of dilutions.
 5 To overcome this flaw, some modern homeopaths suggest that homeopathy is
 6 effective because of “water memory.” These homeopaths believe that water somehow
 7 “remembers” the shape of the original substance.¹¹

8 27. Historically, homeopathic remedies were thought to be effective through
 9 the method of “provings.” Using this method, healthy individual would ingest or
 10 otherwise be exposed to a substance and keep a diary for days or weeks afterwards
 11 listing every physical and emotional experience they had. These diaries were then
 12 evaluated for patters of similar symptoms.

13 28. Modern homeopathic products are actually still based on early “provings”
 14 that were conducted by Samuel Hahneman himself and published in his *Materia
 15 Medica Pura*. However, subsequent efforts to demonstrate consistency or
 16 reproducibility of homeopathic provings have been unsuccessful.¹²

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 18
 19 ¹⁰ See Christopher Wanjek, *Homeopathy and the Folly of Water Memory*, LIVE
 20 SCIENCE (Aug. 6, 2007), available at <http://www.livescience.com/1738-homeopathy-folly-watery-memory.html>

21 ¹¹ *Id.* (“Confronted with pesky laws of chemistry, homeopaths turned to skirting the
 22 laws of physics, The water, they reason, must remember the shape of the medicine and
 23 somehow etch this onto a pill.”).

24 ¹² See *Overview of Homeopathy*, SCIENCE BASED MEDICINE, available at
 25 <https://www.sciencebasedmedicine.org/reference/homeopathy/> (“Homeopathic
 26 “provings” are a method of establishing what a homeopathic remedy contains and how
 27 diluted it should be. It is a sort of “in-house” scientific method, and a poor one:
 28 provings contains no controls for bias or any method for separating the ordinary
 experiences of daily life from true symptoms caused by the substance being tested.
 Many of the provings used to guide homeopathic treatment today were conducted by
 Samuel Hahneman himself. Subsequent efforts to demonstrate consistency or
 reproducibility of homeopathic provings have been unsuccessful.”)

1 **Basic Science Proves that Homeopathy Is Ineffective**

2 29. Because the ingredients in homeopathic products are so hyper-diluted,
 3 science and commonsense proves that homeopathy is ineffective at curing any type of
 4 ailment in any human being.

5 30. An overwhelming majority of experts in the scientific community agree
 6 that the homeopathic theory of dilutions is inconsistent with basic science. Recently,
 7 Australia's National Health and Medical Research Council conducted "an extensive
 8 analysis of 225 controlled studies and some 1,800 papers— ranging from evidence
 9 provided by homeopathy interest groups to government guidelines." The evidence in
 10 the study was also assessed by an independent contractor to avoid bias. The report
 11 concluded that "No good-quality, well-designed studies with enough participants for a
 12 meaningful result reported either that homeopathy caused greater health
 13 improvements than placebo, or caused health improvements equal to those of another
 14 treatment."¹³

15 31. Likewise, a UK House of Commons report that was released in 2010
 16 similarly found that homeopathic treatments were ineffective.¹⁴ The report concluded,
 17 "that the principle of like-cures-like is theoretically weak. It fails to provide a credible
 18 physiological mode of action for homeopathic products. We note that this is the settled
 19 view of medical science.... Even if water could retain memory of previously dissolved
 20 substances we know of no explanation for why the sugar-based homeopathic pills
 21 routinely dispensed would retain such a memory. ***We consider the notion that ultra-***
dilutions can maintain an imprint of substances previously dissolved in them to be
scientifically implausible."

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 25
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¹³ <http://www.iflscience.com/health-and-medicine/homeopathy-ineffective-study-concludes>

27 ¹⁴ See *Science and Technology Committee- Fourth Report Evidence Check 2: Homeopathy*, U.K. HOUSE OF COMMONS (2009), available at <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmsctech/45/4502.htm>

1 32. Many medical experts even believe that the practice of homeopathy is
 2 unethical.¹⁵ Dr. David M. Shaw of the University of Glasgow has noted that
 3 homeopathy “can involve deceiving the patient; indeed, if the only effect is placebo, it
 4 is possible that deception is essential to the practice of homeopathy.”¹⁶

5 33. A publication by the *American Veterinary Medical Association* has
 6 likewise stated the following:

7 The principal that a therapeutic substance becomes more potent
 8 the lower the dose, and that it can still be active even when it
 9 contains only the diluent (water), is inconsistent with the
 10 fundamental principals of chemistry and physiology underlying
 11 all of scientific medicine. A revolution in basic science would
 12 need to take place for this idea to have any possibility of being
 13 correct, and the inconsistent and low-quality studies that have
 14 attempted to validate homeopathic theory do not justify such a
 15 revolution.¹⁷

Regulation of Homeopathic Drugs in the United States

16 34. Homeopathic drugs sold in the United States must comply with the
 17 minimal requirements set forth in the Food and Drug Administration’s Compliance
 18 Policy Guide (“CPG”) § 400.400. However, the FDA has cautioned that compliance
 19 with the CPG “does not establish that [a homeopathic drug] has been shown by
 20 appropriate means to be safe, effective, and not misbranded for its intended use.”
 21 CPG § 400.400. The United States FDA has also publically stated that it “is not aware
 22 of scientific evidence to support homeopathy as effective.”¹⁸

23 ¹⁵ See, e.g., Kevin Smith, *Homeopathy is Unscientific and Unethical*, BIOETHICS, ISSN
 24 0269-9702, available at <http://www.dcsscience.net/Smith-response.pdf>

25 ¹⁶ See Dr. David M. Shaw, *Editorial, Homeopathy is where the harm is: five unethical*
 26 *effects of funding unscientific ‘remedies,’* JOURNAL OF MEDICAL ETHICS VOL. 36,
 27 ISSUE 3 (2010), available at <http://jme.bmjjournals.org/content/36/3/130.full>.

28 ¹⁷ *White Paper: The Case Against Homeopathy*, AMERICAN VETERINARY MEDICAL
 29 ASSOCIATION, available at
https://www.avma.org/About/Governance/Documents/2014W_2013W_Resolution3_Attch1.pdf

30 ¹⁸ See FDA Online Label Repository, available at <http://labels.fda.gov/>.

1 35. On August 21, 2015, the Federal Trade Commission Bureau of Consumer
 2 Protection (“FTC”) recommended that the FDA reconsider its regulatory framework
 3 for homeopathic medicines. Significantly, the FTC stated that “evidence suggests that
 4 a significant percentage of consumers do not understand homeopathic drugs, how the
 5 FDA regulates homeopathic drugs or the level of scientific evidence supporting
 6 homeopathic claims.”¹⁹ The FTC’s comments were also based on consumer
 7 perception research clearly indicating that reasonable consumers are misled by
 8 homeopathic products bearing similar labeling claims as those found on the
 9 NatraBio® Product labels.

10 **Class Action Lawsuits Bring Truth to Homeopathy**

11 36. On August 26, 2011, the non-profit group, Center for Public Inquiry,
 12 petitioned the FDA to require homeopathic drug manufacturers to undergo the same
 13 efficacy requirements as other OTC products, and to label their drugs with a
 14 disclaimer that states: “The FDA has not determined that this product is safe,
 15 effective, and not misbranded for its intended use.” *See Gallucci v. Boiron, Inc.*, Case
 16 No. 3:11-CV-2039 JAH (S.D. Cal.), Dkt. No. 93-1 at p. 18.

17 37. As a result of class action litigation, such as the *Gallucci* case, *supra*,
 18 other homeopathic drug manufacturers have voluntarily agreed to implement a FDA
 19 disclaimer similar to the one noted above, along with additional injunctive relief, such
 20 as a dilution disclaimer and explanation of homeopathic dilution for consumers. *See,*
 21 *e.g.*, *Gallucci*, Dkt. No. 105 at pp. 13-15; Dkt. No. 125 at pp. 9-10. Thus, even those
 22 in the industry recognize a need to more truthfully label homeopathic drugs for the
 23 average consumer. *See id.*

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 25
 26 ¹⁹*See Comments of the Staff of the Federal Trade Commission, In Response to a*
27 Request for Comments Related to its Public Hearing on Homeopathic Product
Regulation: Evaluating the Food and Drug Administration’s Regulatory Framework
28 After a Quarter-Century, 80 Fed. Reg. 16327 (Mar. 27, 2015), Submitted on August
 21, 2015.

1 38. Several class action lawsuits have been filed against homeopathic
2 manufacturers and many courts have overwhelmingly found that the classes are easily
3 certifiable. *See, e.g., Allen v. Similasan Corp.*, ---F.R.D.---, 2015 WL 1534005 (S.D.
4 Cal. 2015); *Allen v. Hylands*, 300 F.R.D. 643 (C.D. Cal. 2014); *Forcellati v. Hylands*,
5 No. 12-cv-1983, 2014 WL 1410264 (C.D. Cal. April 9, 2014).

6 39. A recent SEC filing even shows that Defendant Nutraceutical Corporation
7 is aware of recent lawsuits against other homeopathic manufactures. Defendant boldly
8 brushes off these allegations and states to investors that “plaintiff’s actions under state
9 consumer protection laws for lack of substantiation have been allowed to proceed.
10 Ignoring the unique character of homeopathic drug products, plaintiff’s claims in these
11 actions have been based on the evidence standard applied to conventional drugs.”²⁰
12 However, Defendant Nutraceutical Corporation does not acknowledge that (a) the
13 NatraBio® products are intentionally marketed and sold like conventional OTC drugs,
14 and (b) many lawsuits against homeopathic drug manufacturers allege that the labels
15 on the products are actually false rather than just unsubstantiated.

16 40. Likewise, this class action seeks to expose the truth about the NatraBio®
17 Products and provide redress to consumers by showing that the advertised labeling
18 claims on the NatraBio® Products described below can be proven false and
19 misleading by basic scientific principles.

SPECIFIC MISREPRESENTATIONS

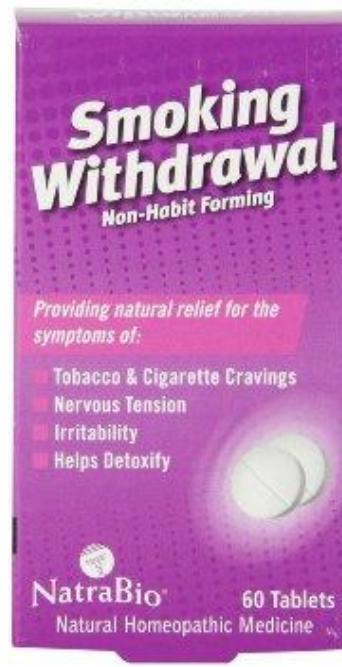
21 41. Despite the overwhelming amount of evidence showing that homeopathy
22 is ineffective at curing any type of ailment in any human being, Defendants continue
23 to manufacture and sell a variety of NatraBio® homeopathic products that make false

²⁶ See Nutraceutical SEC Form 10-K For the Fiscal Year Ended September 30, 2014, available at www.sec.gov/Archives/edgar/data/1050007/000104746914009431/a2222200z10k.htm#de40201 item 1b. unresolved staff comments

1 and deceptive statements on their labels about their abilities to alleviate certain
2 symptoms.

3 42. Each of Defendants' false labeling claims are detailed below:

4 **A. NatraBio® Smoking Withdrawal**



18 43. Beginning on or around January of 2011, Plaintiff Hammock purchased
19 the NatraBio® Smoking Withdrawal Product on multiple occasions from Sprouts and
20 other natural food stores in or near La Jolla, California. Plaintiff Hammock paid
21 approximately \$6.00 for each product that she purchased.

22 44. Defendants advertise NatraBio® "Smoking Withdrawal" Product by
23 putting false and misleading claims on the label, stating or suggesting that the Product
24 provides "natural relief for the symptoms of: Tobacco & Cigarette Cravings, Nervous
25 Tension, Irritability," and that the Product "helps detoxify." Defendants further claim
26 that the NatraBio® Smoking Withdrawal Product is an "advanced formulation" that is
27 "non-habit forming" and provides "fast, effective symptom relief." Moreover,
28 Defendants claim that the Product is "Natural Homeopathic Medicine" made from "all

1 natural ingredients” and that the Product is an “innovative natural health product
 2 formulated and manufactured to pharmaceutical standards.”

3 45. On the Smoking Withdrawal Product’s label, Defendants additionally
 4 make the following misleading claims about the ingredients in the Product:

- 5 • “Abies nigra 10x”.....“respiratory symptoms.”
- 6 • “Lobelia inflate 10x”.....“reduces ill effects of nicotine.”
- 7 • “Nicovap 10x, 14x, 24x, 30x”.....“tobacco product detoxification.”
- 8 • “Nux vomica 10x”.....“reduces tobacco cravings.”
- 9 • “Ignatia amara 14x”.....“reduces nervous tension.”

10 46. Plaintiff Hammock read and relied on each of the quoted statements
 11 above in paragraphs 40 through 41 that are found on the NatraBio® “Smoking
 12 Withdrawal” packaging.

13 47. The Product did not provide the benefits, uses and qualities for Plaintiff
 14 Hammock, as advertised by Defendants because the Product cannot provide the
 15 advertised relief to any human being as a matter of sound scientific principles.

16 48. Plaintiff Hammock would consider buying the Product again in future if it
 17 was effective as advertised.

18 49. Plaintiff Hammock seeks justice for herself and for similarly-situated
 19 consumers of NatraBio® “Smoking Withdrawal.”

20 B. **NatraBio® Leg Cramps**



1 50. In or around July of 2013, Plaintiff Bentley purchased the NatraBio®
 2 “Leg Cramps” Product on at least one occasion from a Wal-Mart store in or near
 3 Sacramento, California. Plaintiff Bentley paid approximately \$5.00 for the product.

4 51. Defendants falsely advertise and market the NatraBio® Leg Cramps
 5 Product by putting false and misleading claims on the label, stating or suggesting that
 6 the Product provides “natural relief for the symptoms of: Leg Cramps, Muscle Pain &
 7 Spasms, Cramps in the Calves and Feet, [and] Night Cramps and Pain.” Defendants
 8 further claim that the NatraBio® Leg Cramps Product is an “advanced formulation”
 9 that is “non-habit forming” and provides “fast, effective symptom relief.” Moreover,
 10 Defendants claim that the Product is “Natural Homeopathic Medicine” made from “all
 11 natural ingredients” and that the Product is an “innovative natural health product
 12 formulated and manufactured to pharmaceutical standards.”

13 52. On the NatraBio® Leg Cramps product label, Defendants additionally
 14 make the following misleading claims about the ingredients in the Product:

- 15 • “Chininum Sulphuricum 4x.....“neuralgia, tearing leg pains.”
- 16 • “Colocynthis 4x”..... “contaction of muscles, leg cramps”
- 17 • “Gnaphalium polycephalum 4x”..... “frequent cramps in legs and feet”
- 18 • “Calcarea Carbonica 6x, 12x, 30x..... “cramps in calves at night”
- 19 • “Lycopodium clavatum 6x”..... “cramps in calves, sciatica”
- 20 • “Magnesia Phosphorica 6x”..... “severe cramps in calves”
- 21 • “Rhus toxicodendron 6x, 12x, 30x”..... “cramps in calves, tearing pains”
- 22 • “Cuprum Metallicum 12x”..... “cramps in legs and feet”

23 53. Plaintiff Bentley read and relied on each of the quoted statements above in
 24 paragraphs 45 through 46 that are found on the NatraBio® “Leg Cramps” packaging.

25 54. The Product did not provide the benefits, uses and qualities for Plaintiff
 26 Bentley, as advertised by Defendants because the Product cannot provide the
 27 advertised relief to any human being as a matter of sound scientific principles.

28 55. Plaintiff Bentley would consider buying the Product again in future if it
 was effective as advertised.

1 56. Plaintiff Bentley seeks justice for herself and for similarly-situated
2 consumers of NatraBio® Leg Cramps.

3 C. **NatraBio® Restless Legs**



18 57. In or around July of 2013, Plaintiff Bentley purchased the NatraBio®
19 "Restless Legs" Product on at least one occasion from a Wal-Mart store in or near
20 Sacramento, California. Plaintiff Bentley paid approximately \$6.00 for the Product.

21 58. Defendants falsely advertise and market the NatraBio® "Restless Legs"
22 Product by putting false and misleading claims on the label, stating or suggesting that
23 the Product provides "natural relief for the symptoms of: Restlessness, Jerking &
24 Twitching, Constant Urge to Move, [and] Tingling." Defendants further claim that the
25 NatraBio® "Restless Legs" Product is an "advanced formulation" that is "non-habit
26 forming" and provides "fast, effective symptom relief." Moreover, Defendants claim
27 that the Product is "Natural Homeopathic Medicine" made from "all natural
28

1 ingredients” and that the Product is an “innovative natural health product formulated
2 and manufactured to pharmaceutical standards.”

3 59. On the NatraBio® “Restless Legs” product label, Defendants additionally
4 make the following misleading claims about the ingredients in the Product:

- 5 • “Arsenicum Album 12x” “desire to move feet constantly”
- 6 • “Chamomile 6x” “urge to get up and walk around”
- 7 • “Causticum 12x” “restless legs at night”
- 8 • “Lycopodium clavatum 6x” “weakness, numbness, leg cramps”
- 9 • “Palladium 12x” “heavy limbs, darting pains, restlessness”
- 10 • “Platina 12x” “restlessness, tingling legs”
- 11 • “Zincum Metallicum 12x” “twitching and jerking of legs”
- 12

13 60. Plaintiff Hammock read and relied on each of the quoted statements
14 above in paragraphs 54 through 55 that are found on the NatraBio® “Restless Legs”
15 packaging.

16 61. The Product did not provide the benefits, uses and qualities for Plaintiff
17 Bentley, as advertised by Defendants because the Product cannot provide the
18 advertised relief to any human being as a matter of scientific principles.

19 62. Plaintiff Bentley would consider buying the Product again in future if it
20 was effective as advertised.

21 63. Plaintiff Bentley seeks justice for herself and for similarly-situated
22 consumers of NatraBio® Restless Legs.

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2 **D. NatraBio® Cold and Sinus Nasal Spray**
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17 64. Plaintiff Love purchased the NatraBio® “Cold and Sinus Nasal Spray
18 Product” on several occasions from a Wal-Mart, Sam’s, and various health food stores
19 in or near Middleburg, Florida beginning on or around 2012. Plaintiff Love paid
20 approximately \$8.00 for each purchase of the product.

21 65. Defendants falsely advertise and market the NatraBio® “Cold and Sinus
22 Nasal Spray” Product by putting false and misleading claims on the label, stating or
23 suggesting that the Product provides relief for the symptoms of: “Nasal Congestion,
24 Sinus Pressure, Headache, Sneezing, [and] Runny Nose.” Defendants further claim
25 that the NatraBio® “Cold and Sinus Nasal Spray” Product is a “continuous use
26 formula.” Moreover, Defendants claim that the Product is “Natural Homeopathic
27 Medicine” that is “formulated and manufactured utilizing natural ingredients in
28 accordance with strict FDA pharmaceutical standards to ensure safety and purity.”

1 66. On the NatraBio® “Cold and Sinus Nasal Spray” product label,
2 Defendants additionally make the following misleading claims about the ingredients
3 in the Product:

- 4 • “Aconitum napellus 6x”..... “sudden onset of cold symptoms”
- 5 • “Adrenalinum 6x”..... “decongestant”
- 6 • “Allium cepa 6x”..... “runny nose, sinus congestion”
- 7 • “Echinacea angustifolia 6x”..... “cold and sinus symptoms”
- 8 • “Euphorbium officinarum 6x”..... “sinus congestion and pain”
- 9 • “Hydrastis canadensis 6x”..... “sinus congestion, runny nose”
- 10 • “Kali bichromicum”..... “cold symptoms, congestion”
- 11 • “Phytolacca decondra 6x”..... “cold, cough, sore throat”
- 12 • “Sticta pulmonaria 6x”..... “cold, cough, headache”

14 67. Plaintiff Hammock read and relied on each of the quoted statements
15 above in paragraphs 61 through 62 that are found on the NatraBio® “Cold and Sinus
16 Nasal Spray” packaging.

17 68. The Product did not provide the benefits, uses and qualities for Plaintiff
18 Love, as advertised by Defendants because the Product cannot provide the advertised
19 relief to any human being as a matter of scientific principles.

20 69. Plaintiff Love would consider buying the Product again in future if it was
21 effective as advertised.

22 70. Plaintiff Love seeks justice for herself and for similarly-situated
23 consumers of NatraBio® Cold and Sinus Nasal Spray.

1 E. **NatraBio® Allergy and Sinus**

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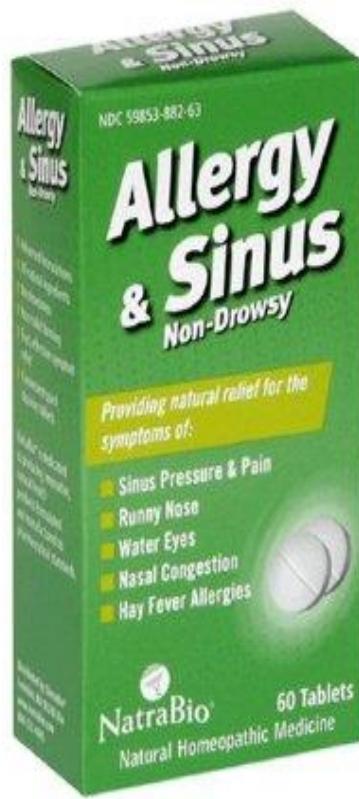
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16 71. Ms. Love purchased the NatraBio® Allergy and Sinus Product on several
 17 occasions from a Wal-Mart, Sam's, and various health food stores in or near
 18 Middleburg, Florida beginning on or around 2012. Plaintiff Love paid approximately
 19 \$6.00 for each purchase of the product.

20 72. Defendants falsely advertise and market the NatraBio® "Allergy and
 21 Sinus" Product by putting false and misleading claims on the label, stating or
 22 suggesting that the Product provides "natural relief for the symptoms of: Sinus
 23 Pressure & Pain, Runny Nose, Water Eyes, Nasal Congestion, [and] Hay Fever
 24 Allergies." Defendants further claim that the NatraBio® "Allergy and Sinus" Product
 25 is an "advanced formulation" that is "non-habit forming" and provides "fast, effective
 26 symptom relief." Moreover, Defendants claim that the Product is "Natural
 27 Homeopathic Medicine" made from "all natural ingredients" and that the Product is an
 28

1 “innovative natural health product formulated and manufactured to pharmaceutical
2 standards.”

3 73. On the “Allergy and Sinus” Product’s label, Defendants additionally make
4 the following misleading claims about the ingredients in the Product:

- 5 • “Chamomilla 1x”..... “allergies, headache, runny nose, cough”
- 6 • “Echinacea angustifolia”..... “allergic reactions, allergies”
- 7 • “Allium cepa 6x”..... “ sneezing, runny nose, hay fever, water eyes”
- 8 • “Ambrosia artemisiaefolia”..... “hay fever, stuffy head and nose”
- 9 • “Euphorbium officinarum 6x”..... “sinus congestion and pain”
- 10 • “Gelsemium sempervirens 6x”..... “headache, sneezing, runny nose”
- 11 • “Sanguinaria canadensis 6x”..... “hay fever, runny nose, burning eyes, cough”
- 12 • “Sticta pumonaria 6x”..... “headache, stuffiness, hay fever”
- 13 • “Kali iodatum 9x”..... “sinus headache, runny nose, sneezing, and stuffiness”

15 74. Plaintiff Love read and relied on each of the quoted statements above in
16 paragraphs 68 through 69 that are found on the NatraBio® “Allergy and Sinus”
17 packaging.

18 75. The Product did not provide the benefits, uses and qualities for Plaintiff
19 Love, as advertised by Defendants because the Product cannot provide the advertised
20 relief to any human being as a matter of scientific principles.

21 76. Plaintiff Love would consider buying the Product again in future if it was
22 effective as advertised.

23 77. Plaintiff Love seeks justice for herself and for similarly-situated
24 consumers of NatraBio® “Allergy and Sinus.”

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1 F. **NatraBio® Children's Cold and Flu Relief**

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16 78. Plaintiff Love purchased the NatraBio® Children's Cold and Flu Product
 17 on at least two occasions from a Wal-Mart, Sam's, and various health food stores in or
 18 near Middleburg, Florida beginning on or around 2012. Ms. Love paid approximately
 19 \$5.00 for each purchase of the product.

20 79. Defendants falsely advertise and market the NatraBio® Children's Cold
 21 and Flu Product by putting false and misleading claims on the label, stating or
 22 suggesting that the Product provides "relief for: Congestion, Sore Throat, Nausea and
 23 Vomiting, Sneezing and Runny Nose, [and] Headache and Body Aches." Moreover,
 24 Defendants claim that the Product is "Natural Homeopathic Medicine" and is of a
 25 "quality parents can trust."

26 80. Plaintiff Love read and relied on each of the quoted statements above in
 27 paragraph 75 that are found on the NatraBio® "Children's Cold and Flu Relief"
 28 packaging.

1 81. The Product did not provide the benefits, uses and qualities for Plaintiff
 2 Love, as advertised by Defendants because the Product cannot provide the advertised
 3 relief to any human being as a matter of sound scientific principles.

4 82. Plaintiff Love would consider buying the Product again in future if it was
 5 effective as advertised.

6 83. Plaintiff Love seeks justice for herself and for similarly-situated
 7 consumers of NatraBio® Children's Cold and Flu.

8 **G. NatraBio® Flu Relief Spray**



23 84. Plaintiff Love purchased the NatraBio® "Flu Relief" Spray on multiple
 24 occasions from a Wal-Mart, Sam's, and various health food stores in or near
 25 Middleburg, Florida beginning on or around 2012. Ms. Love paid approximately
 26 \$7.00 for each purchase of the product.

27 85. Defendants falsely advertise and market the NatraBio® "Flu Relief"
 28 Spray Product by putting false and misleading claims on the label, stating or

1 suggesting that the Product provides “Fast Flu Symptom Relief” and “Relives &
 2 Reduces symptoms of: Body Aches, Congestion, Fever, Headaches, [and] Sore
 3 Throat.” Defendants further claim that the NatraBio® “Flu Relief” Product is “non
 4 addicting.”

5 86. On the Flu Relief Product’s label, Defendants additionally make the
 6 following misleading claims about the ingredients in the Product:

- 7 • “Influenzinum 12x, 30x” “relieves flu symptoms”
- 8 • “Adrenalinum 6x” “decongestant”
- 9 • “Aconitum napellus 6x” “relieves flu symptoms”
- 10 • “Baptisia tinctoria” “relieves flu symptoms”
- 11 • “Eupatorium perfoliatum 6x” “relieves flu symptoms”
- 12 • “Euphrasia officinalis 6x” “relieves sinus symptoms”
- 13 • “Euphorbium officinarum 6x” “decongestant”
- 14 • “Gelsemium sempervirens 6x” “relieves body aches”
- 15 • “Sticta pulmonaria 6x” “decongestant”
- 16 • “Rhus toxicodendron 12x” “relieves body aches”

18 87. Plaintiff Love read and relied on each of the quoted statements above in
 19 paragraphs 81 through 82 that are found on the NatraBio® “Flu Relief” packaging.

20 88. The Product did not provide the benefits, uses and qualities for Plaintiff
 21 Love, as advertised by Defendants because the Product cannot provide the advertised
 22 relief to any human being as a matter of sound scientific principles.

23 89. Plaintiff Love would consider buying the Product again in future if it was
 24 effective as advertised.

25 90. Plaintiff Love seeks justice for herself and for similarly-situated
 26 consumers of NatraBio® Flu Relief.

1 **ARTIFICIAL INGREDIENTS IN THE PRODUCTS**

2 91. The NatraBio® Smoking Withdrawal, Leg Cramps, Restless Legs, Cold
 3 and Sinus Nasal Spray, and Allergy and Sinus each state on the label in a uniform
 4 manner that the products are “Natural Homeopathic Medicine” made from “all
 5 natural” ingredients and the Products are “innovative natural health product[s]
 6 formulated and manufactured to pharmaceutical standards.”

7 92. Plaintiff and the class reasonably believed that the NatraBio® Products
 8 contained only natural ingredients.

9 93. However, the NatraBio® Smoking Withdrawal, Leg Cramps, Restless
 10 Legs, Cold and Sinus Nasal Spray, and Allergy and Sinus Products each contain one
 11 or more artificial and/or synthetic ingredient.

12 94. The NatraBio® Smoking Withdrawal, Leg Cramps, Restless Legs, and
 13 Allergy and Sinus Products each contain magnesium sterate as an ingredient.
 14 Magnesium sterate is an artificial and/or synthetic ingredient that does not occur
 15 naturally. Magnesium sterate “is produced as a white precipitate by the addition of an
 16 aqueous solution of magnesium chloride to an aqueous solution of sodium sterate
 17 derived from stearic acid.” *See* 21 C.F.R. 184.1440.

18 95. The NatraBio® Cold and Sinus Nasal Spray Product contains
 19 “benzylkonium chloride” as an ingredient. Benzalkonium chloride is an artificial
 20 and/or synthetic ingredient that does not occur naturally. Bezalkonium chloride is “a
 21 widely used synthetic antimicrobial agent used in cleaning and disinfection.”²¹ The
 22 ingredient is known to cause “severe skin, eye, and respiratory irritation.”²²

23
 24
 25
 26
 27 ²¹ See Takeoka et al., *Identification of benzalkonium chloride in commercial*
 28 *grapefruit seed extracts*, J. AGRIC. FOOD CHEM. (Sept. 21, 2005).

22 http://www.ewg.org/skindeep/ingredient/700674/BENZALKONIUM_CHLORIDE/

1 **RELIANCE AND INJURY**

2 96. All of Defendants' false and/or misleading claims challenged herein relate
 3 to matters that are material and important to a consumer's purchasing decision, as they
 4 concern the effectiveness of the NatraBio® Products, the qualities and/or composition
 5 of the Products and the reason for which they are sold.

6 97. Defendants' uniform claims in its marketing and promotional materials
 7 are intended to, and did, induce Plaintiffs and members of the Classes defined herein
 8 to rely upon those representations that Defendants' Products were effective and
 9 scientifically tested and/or proven to alleviate the advertised symptoms. These
 10 representations were a substantial factor in causing Plaintiffs and members of the
 11 Class to purchase Defendants' Products.

12 98. At the time members of the Classes purchased the Products, they were
 13 unaware of the fact that the Products were not proven effective for their intended use,
 14 nor is it generally recognized among qualified experts as effective, nor that the
 15 ingredients in the products are so hyper-diluted that they cannot possibly be effective
 16 at curing any ailment in any human being.

17 99. If members of the Classes had been aware of the true facts concerning the
 18 efficacy of the NatraBio® Products, they would not have purchased the Products.

19 100. Plaintiffs and members of the Classes have been injured in fact and have
 20 suffered out of pocket losses. Plaintiffs and members of the Classes therefore seek a
 21 full refund and/or rescission of the transaction and all further equitable and injunctive
 22 relief as provided by applicable law.

23 **EXCEPTIONS TO THE STATUTE OF LIMITATIONS**

24 101. **Delayed discovery.** Plaintiffs are laypersons, lacked the knowledge and
 25 experience to understand how the Products' labels were deceptive or false, and
 26 information regarding the false or deceptive advertising was solely within Defendants'
 27 possession and control. Thus, the delayed discovery exception postpones accrual of
 28 the limitations period for all members of the putative classes.

1 **102. Fraudulent concealment.** Additionally, or in the alternative, Defendants
2 were both constructively and actually aware that the Products were ineffective for
3 their advertised use. Nevertheless, Defendants continued to sell the NatraBio®
4 Products commencing in at least 2007. Therefore, at all relevant times Defendants had
5 a duty to inform consumers that the Products were not effective at providing relief for
6 the advertised symptoms, but Defendants knowingly concealed that fact from
7 members of the putative classes herein. Accordingly, the fraudulent concealment
8 exception tolls the statute of limitations on all claims herein.

9 **103. Continuing violation.** Additionally, or in the alternative, because
10 Defendants' misrepresentations and deception continues up to the present, the
11 continuing violation exception tolls all applicable statutes of limitations for all
12 members of the putative classes until Defendants' unlawful advertising and labeling is
13 corrected.

CLASS ACTION ALLEGATIONS

15 104. Pursuant to Rules 23(a), (b)(3) and/or (b)(2) of the Federal Rules of Civil
16 Procedure, all Plaintiffs bring this action on behalf of themselves and a consumer class
17 initially defined below.

The Nationwide Class

19 All purchasers of NatraBio® homeopathic Products in the United States
20 labeled Smoking Withdrawal, Leg Cramps, Restless Legs, Cold and Sinus
21 Nasal Spray, Allergy and Sinus, Children's Cold and Flu, and Flu Relief
22 Spray for personal or household use and not for resale, during the applicable
23 statute of limitations period. Excluded from the Class are governmental
24 entities, Defendants, any entity in which Defendants have a controlling
25 interest, Defendants' employees, officers, directors, legal representatives,
26 heirs, successors and wholly or partly owned subsidiaries or affiliated
27 companies, including all parent companies, and their employees; and the

1 judicial officers, their immediate family members and court staff assigned to
2 this case.

3 105. Pursuant to Rules 23(a), (b)(3) and/or (b)(2) of the Federal Rules of Civil
4 Procedure, Plaintiffs Hammock and Bentley bring this action on behalf of themselves
5 and a consumer class initially defined below.

6 **The California Class**

7 All purchasers of NatraBio® homeopathic Products in California— and states
8 with laws similar to the California laws alleged to have been violated
9 herein— labeled Smoking Withdrawal, Leg Cramps, and Restless Legs for
10 personal or household use and not for resale, during the applicable statute of
11 limitations period. Excluded from the Class are governmental entities,
12 Defendants, any entity in which Defendants have a controlling interest,
13 Defendants' employees, officers, directors, legal representatives, heirs,
14 successors and wholly or partly owned subsidiaries or affiliated companies,
15 including all parent companies, and their employees; and the judicial
16 officers, their immediate family members and court staff assigned to this
17 case.

18 106. Pursuant to Rules 23(a), (b)(3) and/or (b)(2) of the Federal Rules of Civil
19 Procedure, Plaintiff Love brings this action on behalf of herself and a consumer class
20 initially defined below.

21 **The Florida Class**

22 All purchasers of NatraBio® homeopathic Products in Florida— and states
23 with laws similar to the Florida laws alleged to have been violated herein—
24 labeled Cold and Sinus Nasal Spray, Allergy and Sinus, Children's Cold and
25 Flu, and Flu Relief Spray for personal or household use and not for resale,
26 during the applicable statute of limitations period. Excluded from the Class
27 are governmental entities, Defendants, any entity in which Defendants have
28 a controlling interest, Defendants' employees, officers, directors, legal

1 representatives, heirs, successors and wholly or partly owned subsidiaries or
 2 affiliated companies, including all parent companies, and their employees;
 3 and the judicial officers, their immediate family members and court staff
 4 assigned to this case.

5 107. The proposed Classes are so numerous that individual joinder of all the
 6 members is impracticable. Due to the nature of the trade and commerce involved,
 7 however, Plaintiffs believe the total number of Class members is at least in the
 8 hundreds of thousands and members of the Classes are numerous. While the exact
 9 number and identities of the Class members are unknown at this time, such
 10 information can be ascertained through appropriate investigation and discovery. The
 11 disposition of the claims of the Class members in a single class action will provide
 12 substantial benefits to all parties and to the Court.

13 108. Pursuant to Rule 23(b)(2), Defendants have acted or refused to act on
 14 grounds generally applicable to the Classes, thereby making final injunctive relief or
 15 corresponding declaratory relief and damages as to the Products appropriate with
 16 respect to the Classes as a whole. In particular, Defendants have failed to disclose the
 17 true nature of the Products being marketed as described herein.

18 109. There is a well-defined community of interest in the questions of law and
 19 fact involved, affecting the Plaintiffs and the Classes and these common questions of
 20 fact and law include, but are not limited to, the following:

- 21 a. Whether the claims discussed above are true, misleading, or reasonably
 likely to deceive;
- 22 b. Whether Defendants' alleged conduct violates public policy;
- 23 c. Whether the alleged conduct constitutes violations of the laws asserted
 herein;
- 24 d. Whether Defendants engaged in false or misleading advertising;
- 25 e. Whether Plaintiffs and Class members have sustained monetary loss
 and the proper measure of that loss;

- 1 f. Whether Plaintiffs and Class members are entitled to an award of
- 2 punitive damages; and;
- 3 g. Whether Plaintiffs and Class members are entitled to declaratory and
- 4 injunctive relief.

5
6 110. Plaintiffs' claims are typical of the claims of the members of the Classes.
7 Plaintiffs and all members of the Classes have been similarly affected by Defendants'
8 common course of conduct since they all relied on Defendants' representations
9 concerning the homeopathic Products and purchased the Products based on those
10 representations.

11 111. Plaintiffs will fairly and adequately represent and protect the interests of
12 the Classes. Plaintiffs have retained counsel with substantial experience in handling
13 complex class action litigation in general and scientific claims, including for
14 homeopathic drugs, in particular. Plaintiffs and their counsel are committed to
15 vigorously prosecuting this action on behalf of the Classes and have the financial
16 resources to do so.

17 112. Plaintiffs and the members of the Classes suffered, and will continue to
18 suffer harm as a result of the Defendants' unlawful and wrongful conduct. A class
19 action is superior to other available methods for the fair and efficient adjudication of
20 the present controversy. Individual joinder of all members of the Classes is
21 impracticable. Even if individual Class members had the resources to pursue
22 individual litigation, it would be unduly burdensome to the courts in which the
23 individual litigation would proceed. Individual litigation magnifies the delay and
24 expense to all parties in the court system of resolving the controversies engendered by
25 Defendants' common course of conduct. The class action device allows a single court
26 to provide the benefits of unitary adjudication, judicial economy, and the fair and
27 efficient handling of all Class members' claims in a single forum. The conduct of this
28 action as a class action conserves the resources of the parties and of the judicial

1 system and protects the rights of the class members. Furthermore, for many, if not
2 most, a class action is the only feasible mechanism that allows an opportunity for legal
3 redress and justice.

4 113. Adjudication of individual Class members' claims with respect to
5 Defendants would, as a practical matter, be dispositive of the interests of other
6 members not parties to the adjudication, and could substantially impair or impede the
7 ability of other class members to protect their interests.

A. THE FRAUD CLAIMS

COUNT I

INTENTIONAL MISREPRESENTATION

(By the Nationwide Class, the California Class, and the Florida Class)

12 114. Plaintiffs and the Class members incorporate by reference and re-allege
13 each and every allegation set forth above as though fully set forth herein.

14 115. Plaintiffs bring this first cause of action individually and on behalf of the
15 members of the Nationwide Class against Defendants. Alternatively, Plaintiffs
16 Hammock and Bentley bring this first cause of action individually and on behalf of the
17 California Class and Plaintiff Love brings this first cause of action individually and on
18 behalf of the Florida Class.

19 116. “[T]he fundamental elements of fraud are substantially similar from state
20 to state. Virtually every state requires that there be a misrepresentation made by the
21 defendant, that the defendant had knowledge that it was false, that the defendant
22 intended to induce the reliance of the plaintiff, the plaintiff relied on the statement,
23 and the plaintiff was injured as a result.” *Spencer v. Hartford Financial Services*
24 *Group, Inc.*, 256 F.R.D. 284, 301 (D. Conn. 2009).

25 117. The elements for a claim of intentional misrepresentation in California
26 are: "(1) a misrepresentation (false representation, concealment, or nondisclosure); (2)
27 knowledge of falsity (or scienter); (3) intent to defraud, i.e., to induce reliance; (4)

¹ justifiable reliance; and (5) resulting damage.” *Cortina v. Goya Foods, Inc.*, --- F.Supp.3d---, 2015 WL 1411336, at *14 (S.D. Cal. Mar. 19, 2015).

3 118. Similarly, the elements of fraud under Florida law are: "(1) a false
4 statement concerning a specific material fact; (2) the maker's knowledge that the
5 representation is false; (3) an intention that the representation induces another's
6 reliance; and (4) consequent injury by the other party acting in reliance on the
7 representation." *Hepp v. Paul Revere Life Ins. Co.*, ---F.Supp.3d---, 2015 WL
8 4623733, at *17 (M.D. Fla. July 31, 2015).

****False Statements of Material Facts****

10 119. Defendants represented to Plaintiffs and the class members that the
11 NatraBio® Products are effective at providing the advertised symptom relief.
12 However, the NatraBio® products are not effective at providing the advertised
13 symptom relief because the ingredients in the NatraBio® products are so highly
14 diluted that they cannot possibly provide any symptom relieving effects on any person
15 as a matter of established scientific principles.

16 120. Defendants represented to Plaintiffs and the class members that the
17 NatraBio® Products contain “all natural” ingredients when the products actually
18 contain one or more artificial or synthetic ingredients.

****Fraudulent Concealment****

19 121. Defendants represented to Plaintiffs and the class members that the
20 NatraBio® Products are effective at providing the advertised symptom relief.
21 However, Defendants failed to disclose and actively concealed from Plaintiffs and the
22 class members the truth about the NatraBio® because the products cannot possibly
23 provide the advertised symptom relief.

****Knowledge of Falsities****

25 122. Defendants, at all times mentioned herein, had knowledge that their
26 representations concerning the NatraBio® Products are false and misleading because
27 the Products are ineffective at providing the advertised symptom relief. Defendants, at
28 all times mentioned herein, had knowledge that the homeopathic method used to

1 manufacture the NatraBio® Products makes the ingredients in the products so diluted
2 that they cannot possibly provide the advertised symptom relief for any person.

3 123. In Defendants' SEC Form 10-k, they admit that the homeopathic
4 properties of the NatraBio® Products prevent the Products from having the same
5 efficacy as conventional medicine. Defendants are also aware that there are no reliable
6 scientific studies showing that the NatraBio® Products, or homeopathy in general, can
7 provide the advertised symptom relief. However, Defendants continue to sell the
8 products next to conventional OTC medicines in an effort to intentionally
9 misrepresent that the Products are as effective as conventional medicine.

****Intent to Defraud****

11 124. Defendants made the misrepresentations alleged herein with the intention
12 of inducing and persuading Plaintiffs and the class to purchase the NatraBio®
13 Products because the Defendants sought to reap enormous profits from the sale of the
14 falsely labeled NatraBio® Products.

15 125. Defendants further withheld and omitted material information about the
16 NatraBio® Products with the intention of inducing and persuading Plaintiffs and the
17 class to purchase the products.

****Justifiable Reliance****

19 126. Plaintiffs and the class, by purchasing the NatraBio® products, justifiably
20 relied on Defendants' false and misleading statements and misrepresentations, and on
21 the absence of the material information that Defendants omitted. If Plaintiff's and the
22 class would have known the truth concerning the false representations and omissions,
23 they would not have purchased the products at all.

****Injury****

25 127. As a direct and proximate result of Defendants' intentional
26 misrepresentations and deceptive omissions, Plaintiffs and the class were induced to
27 pay for worthless products.

128. Plaintiffs and the Class were damaged through their purchase and use of the NatraBio® Products.

129. Plaintiffs' and the Class' reliance on Defendants' statements and representations of the nature and characteristics of the NatraBio® Products was reasonable. As a result, Defendants are guilty of malice, oppression, and fraud, and Plaintiffs and the Class are therefore entitled to recover exemplary or punitive damages. Plaintiffs are also seeking actual damages and attorneys' fees and costs as allowed by statute.

COUNT II

NEGLIGENCE MISREPRESENTATION

(By the Nationwide Class, the California Class, and the Florida Class)

130. Plaintiffs and the Class members incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

131. Plaintiffs bring this second cause of action individually and on behalf of the members of the Nationwide Class against Defendants. Alternatively, Plaintiffs Hammock and Bentley bring this first cause of action individually and on behalf of the California Class and Plaintiff Love brings this first cause of action individually and on behalf of the Florida Class.

132. “[N]egligent misrepresentation is narrower than fraud, as it lacks the element of intent to deceive.” *Cortina*, 2015 WL 1411336, at *14. “Therefore, where the defendant makes false statements, honestly believing that they are true, but without reasonable ground for such belief, he may be liable for negligent misrepresentation, a form of deceit.” *Id.* (citing *Intieri v. Superior Court*, 117 Cal.App.4th 72, 86 (2004)).

133. In marketing, advertising and promoting the NatraBio® Products, Defendants carelessly and negligently made representations regarding the products that Defendants knew or should reasonably have known or reasonably foreseen misrepresented material facts and omitted to state material facts.

1 134. As described herein, all reliable and credible scientific evidence
2 demonstrates that the NatraBio® Products cannot be effective at providing the
3 advertised symptom relief because the homeopathically prepared ingredients in the
4 products are so hyper-diluted that they cannot possibly have any effect on any human
5 being.

6 135. Defendants acted negligently and/or recklessly by representing to
7 consumers that the NatraBio® Products can provide the advertised symptom relief
8 when all reliable scientific evidence shows that the Products are ineffective.

9 136. Defendants have a pecuniary interest in the marketing, advertising and
10 promotion of the NatraBio® Products and in making the careless, unreasonable and
11 negligent misrepresentations and omissions alleged herein, including to Plaintiffs and
12 members of the Class.

13 137. In their marketing, advertising and promoting of the NatraBio® Products
14 and in making the careless, unreasonable and negligent misrepresentations and
15 omissions alleged herein, including the representations made to Plaintiffs and the
16 members of the Class, Defendants were in a superior position than Plaintiffs and the
17 members of the Class to know the material facts.

18 138. In their marketing, advertising and promoting of the NatraBio® Products
19 and in making the careless, unreasonable and negligent misrepresentations and
20 omissions alleged herein, including the representations made to Plaintiffs and the
21 members of the Class, Defendants should have reasonably foreseen that Plaintiffs and the
22 members of the Class were likely to rely upon the misrepresentations.

23 139. Defendants' careless, unreasonable and negligent misrepresentations and
24 omissions, as set forth in this complaint, are material in that they relate to matters to
25 which reasonable persons, including Plaintiffs and the members of the Class, would
26 attach importance in their purchasing decisions or conduct regarding the purchase of
27 NatraBio® Products.

28

1 140. Under the circumstances, Defendants had a duty to disclose material,
2 truthful information that they omitted in their careless, unreasonable and negligent
3 misrepresentations and omissions, as set forth in this complaint.

4 141. As alleged in this complaint, Plaintiffs and the members of the Class
5 uniformly relied on Defendants' careless, unreasonable and negligent
6 misrepresentations and omissions, and under the circumstances described above such
7 reliance was reasonable and justifiable.

8 142. As a result of Defendants' careless, unreasonable and negligent statements
9 and omissions as described herein, Plaintiffs and the members of the Class have been
10 injured and have suffered loss of money and property, and they are entitled to recover
11 actual damages from Defendants. In addition, Plaintiffs and the class members are
12 seeking attorneys' fees and costs as allowed by statute.

13 **B. BREACH OF WARRANTY CLAIMS**

14 **COUNT III**

15 **VIOLATION OF MAGNUSON-MOSS WARRANTY ACT**

16 **15 U.S.C. §§ 2301, *et seq.***

17 **(By the Nationwide Class, the California Class, and the Florida Class)**

18 143. Plaintiffs and Class members reallege and incorporate by reference each
19 allegation set forth above and further allege as follows.

20 144. Plaintiffs bring this third cause of action individually and on behalf of the
21 members of the Nationwide Class against Defendants. Alternatively, Plaintiffs
22 Hammock and Bentley bring this third cause of action individually and on behalf of
23 the California Class and Plaintiff Love brings this first cause of action individually
24 and on behalf of the Florida Class.

25 145. The NatraBio® Products are consumer products as defined in 15 U.S.C. §
26 2301(1).

27 146. The NatraBio® Products sell at retail for more than five dollars.
28

1 147. Each Plaintiff purchased the Products on multiple occasions and each paid
2 twenty-five dollars or more for their total purchases.

3 148. Defendants are suppliers and warrantors as defined in 15 U.S.C. § 2301
4 (4) and (5).

5 149. In connection with the sale of the NatraBio® Products, Defendants issued
6 written warranties as defined in 15 U.S.C. § 2301 (6), which warranted that the
7 Products are effective at providing symptom relief.

8 150. In connection with the sale of the NatraBio® Products, Defendants
9 impliedly warranted as defined in 15 U.S.C. § 2301(7), that the products were of
10 merchantable quality, such that the products were of the same average grade, quality,
11 and value as similar goods sold under similar circumstances.

12 151. Defendants breached these warranties because the NatraBio® Products
13 are not effective for their intended use because the products contain hyper-diluted
14 ingredients that are scientifically incapable of curing any ailment in any human being.

15 152. By reason of Defendants' breach of the express written warranties,
16 Defendants violated the statutory rights owed to Plaintiffs and Class members
17 pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*, thereby
18 damaging Plaintiffs and Class members.

19 153. Plaintiffs and the Class members were injured as a direct and proximate
20 result of Defendants' breach because they would not have purchased the NatraBio®
21 products if the true facts had been known.

22 154. Prior to filing this action, Plaintiffs, by and through their counsel,
23 provided Defendants with written notice of their claims pursuant to 15 U.S.C. §
24 2310(e) and also notified Defendants that they are acting on behalf of a Class defined
25 as all persons in the United States who purchased the NatraBio® Products. *See Ex. 1.*

26
27
28

COUNT IV

BREACH OF EXPRESS WARRANTY

(CAL. COM. CODE § 2313)

(By the California Class)

155. Plaintiffs and the Class members reallege and incorporate by reference each allegation set forth above and further allege as follows.

156. Plaintiffs bring this fourth cause of action individually and on behalf of the members of the California Class against Defendants for violation of California Commercial Code § 2313 and similar laws in other states.

157. Defendants, as manufacturers, marketers, distributors, or sellers, expressly warranted that the NatraBio® Products are effective at alleviating the advertised symptoms. Specifically, Defendants made the following unequivocal express warranties in the quoted language below with respect to each of the following products:

NatraBio® Smoking Withdrawal

- “Smoking Withdrawal”
 - “natural relief for the symptoms of: Tobacco & Cigarette Cravings, Nervous Tension, Irritability”
 - “helps detoxify”
 - “advanced formulation”
 - “non-habit forming”
 - “fast, effective symptom relief”
 - “Natural Homeopathic Medicine”
 - “all natural ingredients”
 - “innovative natural health product formulated and manufactured to pharmaceutical standards”
 - “*Abies nigra 10x* “respiratory symptoms”
 - “*Lobelia inflate 10x* “reduces ill effects of nicotine”

- 1 • “Nicovap 10x, 14x, 24x, 30x” “tobacco product detoxification”
- 2 • “Nux vomica 10x” “reduces tobacco cravings”
- 3 • “Ignatia amara 14x” “reduces nervous tension”

4 **NatraBio® Leg Cramps**

- 5 • “Leg Cramps”
- 6 • “natural relief for the symptoms of: Leg Cramps, Muscle Pain & Spasms,
- 7 Cramps in the Calves and Feet, [and] Night Cramps and Pain.”
- 8 • “advanced formulation”
- 9 • “non-habit forming”
- 10 • “fast, effective symptom relief”
- 11 • “Natural Homeopathic Medicine”
- 12 • “all natural ingredients”
- 13 • “innovative natural health product formulated and manufactured to
- 14 pharmaceutical standards”
- 15 • “Chininum Sulphuricum 4x..... “neuralgia, tearing leg pains.”
- 16 • “Colocynthis 4x” “contaction of muscles, leg cramps”
- 17 • “Gnaphalium polycephalum 4x” “frequent cramps in legs and feet”
- 18 • “Calcarea Carbonica 6x, 12x, 30x..... “cramps in calves at night”
- 19 • “Lycopodium clavatum 6x” “cramps in calves, sciatica”
- 20 • “Magnesia Phosphorica 6x” “severe cramps in calves”
- 21 • “Rhus toxicodendron 6x, 12x, 30x” “cramps in calves, tearing pains”
- 22 • “Cuprum Metallicum 12x” “cramps in legs and feet”

23 **NatraBio® Restless Legs**

- 24 • “Restless Legs”
- 25 • “natural relief for the symptoms of: Restlessness, Jerking & Twitching,
- 26 Constant Urge to Move, [and] Tingling”
- 27 • “Restless Legs”
- 28 • “Advanced formulation”

- 1 • “Non-habit forming”
- 2 • “Fast, effective symptom relief”
- 3 • “Natural Homeopathic Medicine”
- 4 • “All natural ingredients”
- 5 • “Innovative natural health product formulated and manufactured to
6 pharmaceutical standards”
- 7 • “Arsenicum Album 12x”.....“desire to move feet constantly”
- 8 • “Chamomile 6x”.....“urge to get up and walk around”
- 9 • “Causticum 12x”.....“restless legs at night”
- 10 • “Lycopodium clavatum 6x”.....“weakness, numbness, leg cramps”
- 11 • “Palladium 12x”.....“heavy limbs, darting pains, restlessness”
- 12 • “Platina 12x”.....“restlessness, tingling legs”
- 13 • “Zincum Metallicum 12x”.....“twitching and jerking of legs”

14 **NatraBio® Cold and Sinus Nasal Spray**

- 15 • “Cold and Sinus Nasal Spray”
- 16 • “Nasal Congestion, Sinus Pressure, Headache, Sneezing, [and] Runny Nose.”
- 17 • “Continuous use formula”
- 18 • “Natural Homeopathic Medicine”
- 19 • “Formulated and manufactured utilizing natural ingredients in accordance with
20 strict FDA pharmaceutical standards to ensure safety and purity”
- 21 • “Aconitum napellus 6x”.....“sudden onset of cold symptoms”
- 22 • “Adrenalinum 6x”.....“decongestant”
- 23 • “Allium cepa 6x”.....“runny nose, sinus congestion”
- 24 • “Echinacea angustifolia 6x”.....“cold and sinus symptoms”
- 25 • “Euphorbium officinarum 6x”.....“sinus congestion and pain”
- 26 • “Hydrastis canadensis 6x”.....“sinus congestion, runny nose”
- 27 • “Kali bichromicum”.....“cold symptoms, congestion”

- 1 • “Phytolacca decondra 6x”.....“cold, cough, sore throat”
- 2 • “Sticta pulmonaria 6x”“cold, cough, headache”

3 **NatraBio® Allergy and Sinus**

- 4 • “Allergy and Sinus”
- 5 • “Natural relief for the symptoms of: Sinus Pressure & Pain, Runny Nose, Water
- 6 Eyes, Nasal Congestion, [and] Hay Fever Allergies”
- 7 • “Advanced formulation”
- 8 • “Non-habit forming”
- 9 • “Fast, effective symptom relief.”
- 10 • “Natural Homeopathic Medicine”
- 11 • “All natural ingredients”
- 12 • “Innovative natural health product formulated and manufactured to
- 13 pharmaceutical standards”
- 14 • “Chamomilla 1x”.....“allergies, headache, runny nose, cough”
- 15 • “Echinacea angustifolia”.....“allergic reactions, allergies”
- 16 • “Allium cepa 6x”.....“sneezing, runny nose, hay fever, water eyes”
- 17 • “Ambrosia artemisiaefolia”.....“hay fever, stuffy head and nose”
- 18 • “Euphorbium officinarum 6x”.....“sinus congestion and pain”
- 19 • “Gelsemium sempervirens 6x”.....“headache, sneezing, runny nose”
- 20 • “Sanguinaria canadensis 6x”.....“hay fever, runny nose, burning eyes, cough”
- 21 • “Sticta pumonaria 6x”.....“headache, stuffiness, hay fever”
- 22 • “Kali iodatum 9x”.....“sinus headache, runny nose, sneezing, and stuffiness”

24 **NatraBio® Children’s Cold and Flu Relief**

- 25 • “Children’s Cold and Flu”
- 26 • “Relief for: Congestion, Sore Throat, Nausea and Vomiting, Sneezing and
- 27 Runny Nose, [and] Headache and Body Aches”
- 28 • “Natural Homeopathic Medicine”

- 1 • “Quality parents can trust”

2 **NatraBio® Flu Relief**

- 3 • “Flu Relief”
- 4 • “Fast Flu Symptom Relief”
- 5 • “Relives & Reduces symptoms of: Body Aches, Congestion, Fever,
6 Headaches, [and] Sore Throat”
- 7 • “non addicting”
- 8 • “Influenzinum 12x, 30x”..... “relieves flu symptoms”
- 9 • “Adrenalinum 6x”..... “decongestant”
- 10 • “Aconitum napellus 6x”..... “relieves flu symptoms”
- 11 • “Baptisia tinctoria”..... “relieves flu symptoms”
- 12 • “Eupatorium perfoliatum 6x”..... “relieves flu symptoms”
- 13 • “Euphrasia officinalis 6x”..... “relieves sinus symptoms”
- 14 • “Euphorbium officinarum 6x”..... “decongestant”
- 15 • “Gelsemium sempervirens 6x”..... “relieves body aches”
- 16 • “Sticta pulmonaria 6x”..... “decongestant”
- 17 • “Rhus toxicodendron 12x”..... “relieves body aches”

19 158. Defendants breached each of the warranties in the above-quoted language
20 because the NatraBio® Products are not effective for their intended use and the
21 Products have never been proven effective by competent and reliable scientific
22 evidence to alleviate any symptom in any human being. Additionally, the Products
23 contain one or more artificial and/or synthetic ingredients despite the fact that
24 Defendants represent the Products as being “all natural.”

25 159. Plaintiffs and the Class members were exposed to the above-quoted
26 express written warranties, relied on the express written warranties when purchasing
27 the products, and the above-quoted written warranties were part of the “basis of the
28 bargain” in the sales transactions.

160. Plaintiffs and the Class members were injured as a direct and proximate result of Defendants' breach because they would not have purchased the NatraBio® products if the true facts had been known.

161. Defendants breached their express warranty by selling products that are not effective for their intended use because homeopathic products have never been proven effective by competent and reliable scientific evidence.

162. Plaintiffs and the Class Members, as consumers of the NatraBio® Products, are third-party beneficiaries of agreements between the Defendants and retailers who sell the NatraBio® Products.

163. Prior to filing this action, Plaintiffs, by and through their counsel, provided Defendants with written notice of their claims and also notified Defendants that they are acting on behalf of a Class defined as all persons in the United States who purchased the NatraBio® Products. *See Ex. 1.*

164. Plaintiffs, on behalf of themselves and the class, seek actual damages and attorneys' fees and costs as allowed by statute for Defendants' breach of warranty.

COUNT V

**VIOLATION OF SONG-BEVERLY CONSUMER WARRANTY ACT FOR
BREACH OF EXPRESS WARRANTIES
(CAL CIV. CODE §§ 1791, *et seq.*)**

165. Plaintiffs and the Class members reallege and incorporate by reference each allegation set forth above and further allege as follows.

166. Plaintiffs bring this fifth cause of action individually and on behalf of the members of the California Class against Defendants for violation of California Civil Code §§ 1791, *et seq.*

167. Plaintiffs and the other Class members who purchased the NatraBio® Products in California are “buyers” within the meaning of Cal. Civ. Code § 1791(b).

168. The NatraBio® Products are “consumer goods” within the meaning of Cal. Civ. Code § 1791(a).

1 169. Defendants are “manufacturers” of the NatraBio® Products within the
2 meaning of Cal. Civ. Code § 1791(j).

3 170. Plaintiffs and the other Class members who purchased the NatraBio®
4 Products in California are “buyers” within the meaning of Cal. Civ. Code § 1791(b).

5 171. Defendants made express warranties to Plaintiffs and the other Class
6 members within the meaning of Cal. Civ. Code §§ 1791.2 and 1793.2, as described in
7 Count IV and incorporated by reference herein.

8 172. Defendants breached each of the warranties described in Count IV and
9 incorporated by reference herein because the NatraBio® Products are not effective for
10 their intended use and the Products have never been proven effective by competent
11 and reliable scientific evidence to alleviate any symptom in any human being.
12 Additionally, the Products contain one or more artificial and/or synthetic ingredients
13 despite the fact that Defendants represent the Products as being “all natural.”

14 173. Plaintiffs and the Class members were exposed to the above-quoted
15 express written warranties, relied on the express written warranties when purchasing
16 the products, and the above-quoted written warranties were part of the “basis of the
17 bargain” in the sales transactions.

18 174. Plaintiffs and the Class members were injured as a direct and proximate
19 result of Defendants’ breach because they would not have purchased the NatraBio®
20 products if the true facts had been known.

21 175. Defendants breached their express warranty by selling products that are
22 not effective for their intended use because homeopathic products have never been
23 proven effective by competent and reliable scientific evidence.

24 176. Prior to filing this action, Plaintiffs, by and through their counsel,
25 provided Defendants with written notice of their claims and also notified Defendants
26 that they are acting on behalf of a Class defined as all persons in the United States
27 who purchased the NatraBio® Products. *See Ex. 1.*

177. Plaintiffs, on behalf of themselves and the class, seek actual damages and attorneys' fees and costs as allowed by statute for Defendants' breach of warranty.

COUNT VI

BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY (CAL. COM. CODE § 2314)

178. Plaintiffs and the Class members reallege and incorporate by reference each allegation set forth above and further allege as follows.

179. Plaintiffs bring this sixth cause of action individually and on behalf of the members of the California Class against Defendants for violations of California Commercial Code § 2314 and similar laws in other states.

180. Defendants were at all relevant times merchants with respect to the
NatraBio® products under Cal. Com. Code § 2104.

181. A warranty that the NatraBio® Products were in merchantable condition was implied by law in the instant transaction, pursuant to Cal. Com. Code § 2314.

182. Defendants, as the designers, manufacturers, marketers, distributors, and sellers impliedly warranted that the NatraBio® products were fit for their intended purpose in that the Products would be effective at alleviating the advertised symptoms. Defendants did so with the intent to induce Plaintiffs and members of the Class to purchase the Products.

183. Defendants breached their implied warranties in the contract for the sale of the NatraBio® products because the Products are ineffective at providing relief from any symptom in any human being and are therefore the Products are not fit for their ordinary purpose.

184. Additionally, the Products contain one or more artificial and/or synthetic ingredients despite the fact that Defendants represent the Products as being “all natural.”

185. In reliance upon Defendants' skill and judgment and the implied warranties discussed above, Plaintiffs and the Class members purchased the NatraBio® Products to help alleviate the advertised symptoms.

186. Plaintiffs and the Class Members, as consumers of the NatraBio® Products, are third-party beneficiaries of agreements between the Defendants and retailers who sell the NatraBio® Products.

187. The NatraBio® products were not altered by Plaintiffs or the Class Members.

188. Prior to filing this action, Plaintiffs, by and through their counsel, provided Defendants with written notice of their claims and also notified Defendants that they are acting on behalf of a Class defined as all persons in the United States who purchased the NatraBio® Products. *See Ex. 1.*

189. Plaintiffs, on behalf of themselves and the class, seek actual damages, equitable relief, and attorneys' fees and costs as allowed by statute for Defendants' breach of warranty.

COUNT VII

**VIOLATION OF SONG-BEVERLY CONSUMER WARRANTY ACT FOR
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
(CAL. CIV. CODE §§ 1791.1 & 1792)**

(By the California Class)

190. Plaintiffs and the Class members reallege and incorporate by reference each allegation set forth above and further allege as follows.

191. Plaintiffs bring this seventh cause of action individually and on behalf of the members of the California Class against Defendants.

192. Plaintiffs and the other Class members who purchased the NatraBio® Products in California are “buyers” within the meaning of Cal. Civ. Code § 1791(b).

193. The NatraBio® Products are “consumer goods” within the meaning of Cal. Civ. Code § 1791(a).

1 194. Defendants are “manufacturers” of the NatraBio® Products within the
2 meaning of Cal. Civ. Code § 1791(j).

3 195. Plaintiffs and the other Class members who purchased the NatraBio®
4 Products in California are “buyers” within the meaning of Cal. Civ. Code § 1791(b).

5 196. Defendants impliedly warranted to Plaintiffs and the other Class members
6 that the NatraBio® Products were “merchantable” within the meaning of Cal. Civ.
7 Code §§ 1791.1(a) & 1792, however, the Products do not have the quality that a buyer
8 would reasonably expect.

9 197. 402. Cal. Civ. Code § 1791.1(a) states:

10 “Implied warranty of merchantability” or “implied warranty that goods are
11 merchantable” means that the consumer goods meet each of the following:

12 (1) Pass without objection in the trade under the contract description.

13 (2) Are fit for the ordinary purposes for which such goods are used.

14 (3) Are adequately contained, packaged, and labeled.

15 (4) Conform to the promises or affirmations of fact made on the container or
16 label.

17 198. The Products would not pass without objection because they are
18 ineffective at providing the advertised symptom relief and therefore are worthless
19 products.

20 199. The Products are not fit for the ordinary purpose in which OTC drug
21 products are used because the Products provide no symptom relief whatsoever.

22 200. The Products are not adequately labeled because the labeling fails to
23 disclose the true nature of the homeopathic preparation of the products that renders the
24 products to be wholly ineffective for their advertised use.

25 201. The NatraBio® Products also fail to conform to the promises or
26 affirmations of fact made on the container or label because they are ineffective at
27 providing relief from any symptom in any human being. Additionally, the Products

contain one or more artificial and/or synthetic ingredients despite the fact that Defendants represent the Products as being “all natural.”

202. In reliance upon Defendants' skill and judgment and the implied warranties discussed above, Plaintiffs and the Class members purchased the NatraBio® Products to help alleviate the advertised symptoms.

203. Plaintiffs and the Class Members, as consumers of the NatraBio® Products, are third-party beneficiaries of agreements between the Defendants and retailers who sell the NatraBio® Products.

204. The NatraBio® products were not altered by Plaintiffs or the Class Members.

205. Prior to filing this action, Plaintiffs, by and through their counsel, provided Defendants with written notice of their claims and also notified Defendants that they are acting on behalf of a Class defined as all persons in the United States who purchased the NatraBio® Products. *See Ex. 1.*

206. Plaintiffs, on behalf of themselves and the class, seek actual damages, equitable relief, and attorneys' fees and costs as allowed by statute for Defendants' breach of warranty.

COUNT VIII
BREACH OF EXPRESS WARRANTY
(FLA. STAT. § 672.313)
(By the Florida Class)

207. Plaintiffs and the Class members reallege and incorporate by reference each allegation set forth above and further allege as follows.

208. Plaintiff Love brings this eighth cause of action individually and on behalf of the members of the Florida Class against Defendants for violation of Florida Statute Annotated § 672.313 and similar laws in other states.

209. Defendants breached each of the express warranties described in Count IV and incorporated by reference herein because the NatraBio® Products are not

1 effective for their intended use and the Products have never been proven effective by
2 competent and reliable scientific evidence to alleviate any symptom in any human
3 being. Additionally, the Products contain one or more artificial and/or synthetic
4 ingredients despite the fact that Defendants represent the Products as being “all
5 natural.”

6 210. Defendants express warranties regarding the NatraBio® Products formed
7 the basis of the bargain that was reached when Plaintiff Love and the other Class
8 members purchased the products.

9 211. Plaintiffs and the Class members were exposed to the above-quoted
10 express written warranties, relied on the express written warranties when purchasing
11 the products, and the above-quoted written warranties were part of the “basis of the
12 bargain” in the sales transactions.

13 212. Plaintiffs and the Class members were injured as a direct and proximate
14 result of Defendants’ breach because they would not have purchased the NatraBio®
15 products if the true facts had been known.

16 213. Defendants breached their express warranty by selling products that are
17 not effective for their intended use because homeopathic products have never been
18 proven effective by competent and reliable scientific evidence.

19 214. Plaintiff, on behalf of herself and the Florida class, seek all remedies as
20 allowed by law including but not limited to actual damages, attorneys’ fees, and costs
21 as allowed by statute for Defendants’ breach of warranty.

22 215. In addition, at the time Defendants warranted and sold the NatraBio®
23 Products it knew that the Products did not conform to the warranties and were
24 inherently ineffective at providing the advertised symptom relief, and Defendants
25 wrongfully and fraudulently misrepresented and/or concealed material facts regarding
26 the NatraBio® Products. Plaintiff and the other Class members were therefore induced
27 to purchase the NatraBio® Products under false and/or fraudulent pretenses.
28

1 216. Plaintiff and the other Class members assert as an additional and/or
2 alternative remedy, as set forth in Fla. Stat. § 672.608, for a revocation of acceptance
3 of the goods, and for a return to Plaintiff and to the other Class members of the
4 purchase price of all NatraBio® Products purchased and for such other incidental and
5 consequential damages as allowed under Fla. Stat. §§ 672.711 and 672.608.

6 217. Prior to filing this action, Plaintiffs, by and through their counsel,
7 provided Defendants with written notice of their claims and also notified Defendants
8 that they are acting on behalf of a Class defined as all persons in the United States
9 who purchased the NatraBio® Products. *See Ex. 1.*

COUNT IX

BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

(FLA. STAT. § 672.314)

(By the Florida Class)

14 218. Plaintiffs and the Class members reallege and incorporate by reference
15 each allegation set forth above and further allege as follows.

16 219. Plaintiff Love bring this ninth cause of action individually and on behalf
17 of the members of the Florida Class against Defendants for violations of Florida
18 Statute Annotated § 672.314 and similar laws in other states.

19 220. Defendants were at all relevant times merchants with respect to the
20 NatraBio® products.

21 221. A warranty that the NatraBio® Products were in merchantable condition
22 was implied by law in the instant transaction.

23 222. Defendants, as the designers, manufacturers, marketers, distributors, and
24 sellers impliedly warranted that the NatraBio® products were fit for their intended
25 purpose and were not fit for the ordinary purpose in which they are used in that the
26 Products would be effective at alleviating the advertised symptoms. Defendants did so
27 with the intent to induce Plaintiffs and members of the Class to purchase the Products.

1 223. Defendants breached their implied warranties in the contract for the sale
2 of the NatraBio® products because the Products are ineffective at providing relief
3 from any symptom in any human being and are therefore the Products are not fit for
4 their ordinary purpose.

5 224. Additionally, the Products contain one or more artificial and/or synthetic
6 ingredients despite the fact that Defendants represent the Products as being “all
7 natural.”

8 225. In reliance upon Defendants' skill and judgment and the implied
9 warranties discussed above, Plaintiffs and the Class members purchased the
10 NatraBio® Products to help alleviate the advertised symptoms.

11 226. Plaintiffs and the Class Members, as consumers of the NatraBio®
12 Products, are third-party beneficiaries of agreements between the Defendants and
13 retailers who sell the NatraBio® Products.

14 227. The NatraBio® products were not altered by Plaintiffs or the Class
15 Members.

16 228. Prior to filing this action, Plaintiffs, by and through their counsel,
17 provided Defendants with written notice of their claims and also notified Defendants
18 that they are acting on behalf of a Class defined as all persons in the United States
19 who purchased the NatraBio® Products. *See Ex. 1.*

20 229. Plaintiffs, on behalf of themselves and the class, seek all available
21 remedies by law including but not limited to actual damages, equitable relief, and
22 attorneys' fees and costs as allowed by statute for Defendants' breach of warranty.

COUNT X

BREACH OF CONTRACT/ COMMON LAW WARRANTY

(By the Nationwide Class, the California Class, and the Florida Class)

26 230. Plaintiffs and the Class members reallege and incorporate by reference
27 each allegation set forth above and further allege as follows.

1 231. Plaintiffs bring this tenth cause of action individually and on behalf of the
 2 members of all Classes against Defendants. Alternatively, Plaintiffs Bentley and
 3 Hammock bring this tenth cause of action individually and on behalf of the California
 4 class and Plaintiff Love brings this tenth cause of action individually and on behalf of
 5 the Florida class.

6 232. To the extent Defendants' representations are deemed not to be warranties
 7 under California's Commercial Code or Florida's Commercial Code, Plaintiffs,
 8 individually and on behalf of the other Class members, plead in the alternative under
 9 common law warranty and contract law.

10 233. Defendants breached each of the warranties detailed in Count IV and
 11 incorporated by reference herein because the NatraBio® Products are not effective for
 12 their intended use and the Products have never been proven effective by competent
 13 and reliable scientific evidence to alleviate any symptom in any human being.
 14 Additionally, the Products contain one or more artificial and/or synthetic ingredients
 15 despite the fact that Defendants represent the Products as being "all natural."

16 234. Plaintiffs and the Class members were exposed to the above-quoted
 17 express written warranties, relied on the express written warranties when purchasing
 18 the products, and the above-quoted written warranties were part of the "basis of the
 19 bargain" in the sales transactions.

20 235. Plaintiffs and the Class Members, as consumers of the NatraBio®
 21 Products, are third-party beneficiaries of agreements between the Defendants and
 22 retailers who sell the NatraBio® Products.

23 236. Plaintiffs and the Class members were injured as a direct and proximate
 24 result of Defendants' breach because they would not have purchased the NatraBio®
 25 products if the true facts had been known.

26 237. Defendants breached their express warranty by selling products that are
 27 not effective for their intended use because homeopathic products have never been
 28 proven effective by competent and reliable scientific evidence.

1 238. Prior to filing this action, Plaintiffs, by and through their counsel,
 2 provided Defendants with written notice of their claims and also notified Defendants
 3 that they are acting on behalf of a Class defined as all persons in the United States
 4 who purchased the NatraBio® Products. *See Ex. 1.*

5 239. Plaintiffs, on behalf of themselves and the class seek all available
 6 remedies allowed by law including but not limited to actual damages, recession/
 7 restitution, and attorneys' fees and costs as allowed by statute for Defendants' breach
 8 of warranties.

9 **C. CLAIM FOR RESTITUTION**

10 **COUNT XI**

11 **QUASI-CONTRACT/ UNJUST ENRICHMENT**

12 **(By the Nationwide Class, the California Class, and the Florida Class)**

13 240. Plaintiffs and the Class members incorporate by reference and re-allege
 14 each and every allegation set forth above as though fully set forth herein.

15 241. Plaintiffs bring this eleventh cause of action individually and on behalf of
 16 the members of the Nationwide Class against Defendants. Alternatively, Plaintiffs
 17 Hammock and Bentley bring this eleventh cause of action individually and on behalf
 18 of the California Class and Plaintiff Love brings this eleventh cause of action
 19 individually and on behalf of the Florida Class.

20 242. Plaintiffs and the Class members conferred a benefit on Defendants by
 21 purchasing the NatraBio® Products.

22 243. Defendants have been unjustly enriched in retaining the revenues derived
 23 from Class members' purchases of the NatraBio® Products, which retention under
 24 these circumstances is unjust and inequitable because Defendants misrepresented the
 25 facts concerning the efficacy of the Products and caused Plaintiffs and the Class to
 26 lose money as a result thereof.

27 244. Plaintiffs and the Class members were injured as a direct and proximate
 28 result of Defendants' breach because they would not have purchased the NatraBio®

1 Products if the true facts had been known. Because Defendants' retention of the non-
2 gratuitous benefit conferred on it by Plaintiffs and Class members is unjust and
3 inequitable, Defendants must pay restitution to Plaintiffs and Class members for their
4 unjust enrichment, as ordered by the Court.

5 **D. VIOLATIONS OF CONSUMER PROTECTION STATUTES**

6 **COUNT XII**

7 **VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW**

8 **(CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.)**

9 **(By the California Class)**

10 245. Plaintiffs and the Class members incorporate by reference and re-allege
11 each and every allegation set forth above as though fully set forth herein.

12 246. Plaintiffs Hammock and Bentley bring this twelfth cause of action
13 individually and on behalf of the members of the California Class against Defendants.

14 247. California's Unfair Competition Law, Business and Professions Code
15 §17200 (the "UCL") prohibits any "unfair, deceptive, untrue or misleading
16 advertising." For the reasons discussed above, Defendants have engaged in unfair,
17 deceptive, untrue and misleading advertising, and continue to engage in such business
18 conduct, in violation of the UCL.

19 248. California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code §§
20 17200, *et seq.*, proscribes acts of unfair competition, including "any unlawful, unfair
21 or fraudulent business act or practice and unfair, deceptive, untrue or misleading
22 advertising."

23 ****Unlawful****

24 249. Defendants have violated the UCL unlawful prong in at least the
25 following ways:

- 26 i. By knowingly and intentionally concealing from Plaintiffs and the
27 other California Class members that the NatraBio® Products
28 cannot provide the advertised symptom relief while obtaining
money from Plaintiffs;

- ii. By misrepresenting the nature of the NatraBio® Products and the Products' effectiveness at providing the advertised symptom relief.
 - iii. By falsely advertising the Products as being "all natural" despite the fact that the Products contain one or more artificial or synthetic ingredients.
 - iv. By violating federal laws, including the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301; and
 - v. By violating other California laws, including Cal. Civ. Code §§ 1709, 1710, and 1750, *et seq.*, and Cal. Comm. Code § 2313.

250. Such conduct is ongoing and continues to this date.

251. Plaintiffs and the Class reserve the right to allege other violations of law which constitute other unlawful business acts or practices.

Unfair

252. The UCL also prohibits any “unfair” ... business act or practice.”

253. Defendants' acts, omissions, misrepresentations, practices and nondisclosures as alleged herein also constitute "unfair" business acts and practices within the meaning of the UCL in that their conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged benefits attributable to such conduct. In the alternative, Defendants' business conduct as described herein violates relevant laws designed to protect consumers and business from unfair competition in the marketplace. Such conduct is ongoing and continues to date.

254. Plaintiffs also allege violations of consumer protection, unfair competition and truth in advertising laws in California and other states resulting in harm to consumers. Plaintiffs assert violation of the public policy of engaging in false and misleading advertising, unfair competition and deceptive conduct towards consumers. This conduct constitutes violations of the unfair prong of the UCL. Such conduct is ongoing and continues to this date.

255. There were reasonably available alternatives to further Defendants' legitimate business interests, other than the conduct described herein.

****Fraudulent****

256. The UCL also prohibits any “fraudulent business act or practice.”

257. Defendants' claims, nondisclosures (i.e., omissions) and misleading statements, as more fully set forth above, were false, misleading and/or likely to deceive a reasonable consumer within the meaning of the UCL. Such conduct is ongoing and continues to this date.

258. Defendants' conduct caused and continues to cause substantial injury to Plaintiffs and the other Class members. Plaintiffs Hammock and Bentley have suffered injury in fact as a result of Defendants' unfair conduct.

259. Defendants have thus engaged in unlawful, unfair and fraudulent business acts and practices and false advertising, entitling Plaintiffs Hammock, Bentley, and the Class to injunctive relief against Defendants, as set forth in the Prayer for Relief.

260. Pursuant to Business and Professions Code §17203, Plaintiffs Hammock, Bentley, and the Class seek an order requiring Defendants to immediately cease such acts of unlawful, unfair and fraudulent business practices and requiring Defendants to engage in a corrective advertising campaign.

261. Plaintiffs Hammock and Bentley, on behalf of the Class, also seek an order for the disgorgement and restitution of all monies from the sale of the Products they purchased, which was unjustly acquired through acts of unlawful, unfair, and/or fraudulent competition and attorneys' fees and costs.

COUNT XIII

**VIOLATION OF CALIFORNIA'S CONSUMERS LEGAL REMEDIES ACT
(CAL. CIV. CODE §§ 1750, ET SEQ.)
(By the California Class)**

262. Plaintiffs and the Class members incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

1 263. Plaintiffs Hammock and Bentley bring this thirteenth cause of action
 2 individually and on behalf of the members of the California Class against Defendants.

3 264. This cause of action is brought pursuant to the Consumers Legal
 4 Remedies Act, California Civil Code §1750, *et seq.* (the “Act”), and similar consumer
 5 fraud laws in other states. Plaintiffs are consumers as defined by California Civil
 6 Code §1761(d). The Products are goods within the meaning of the Act.

7 265. Defendants violated and continue to violate the Act by engaging in the
 8 following practices proscribed by California Civil Code §1770(a) in transactions with
 9 Plaintiffs and the Class which were intended to result in, and did result in, the sale of
 10 the NatraBio® Products:

- 11 (5) Representing that [the Products have] ... characteristics ... uses [or]
 benefits ... which it does not have ... ***
- 12 (7) Representing that [the Products are] of a particular standard, quality or
 grade... if [they are] of another. ***
- 13 (9) Advertising a good... with intent not to sell it as advertised. ***
- 14 (16) Representing that [the Products have] been supplied in accordance with a
 previous representation when [it have] not.

19 266. Defendants violated the Act by representing false or deceptive
 20 information in the labeling of the Products as described above, when they knew, or
 21 should have known, that the representations and advertisements were false or
 22 misleading.

23 267. Plaintiffs and other members of the Class reasonably relied upon the
 24 Defendants’ representations as to the quality and attributes of the NatraBio® Products.

25 268. Plaintiffs and other members of the Class were likely to be deceived by
 26 Defendants’ representations about the quality and attributes of their Products,
 27 including but not limited to the purported uses, benefits and characteristics of their
 28 Products, taken as a whole, as described herein. Plaintiffs and other Class members

would not have purchased the Products had they known the Defendants' claims were untrue, and had they known the true nature of the Products.

3 269. Pursuant to § 1782 *et seq.* of the Act, Plaintiffs notified Defendants in
4 writing by certified mail of the particular violations of § 1770 of the Act as to the
5 Products they purchased and demanded that Defendant rectify the problems associated
6 with the actions detailed above and give notice to all affected consumers of their intent
7 to so act. *See Ex. 1.* Defendants' wrongful business practices constituted, and
8 constitute, a continuing course of conduct in violation of the California's Consumers
9 Legal Remedies Act since Defendants are still representing that the Products have
10 characteristics, uses, benefits, and abilities which are false and misleading, and have
11 injured Plaintiffs and the Class.

12 270. Pursuant to California Civil Code § 1780(d), Plaintiffs Hammock and
13 Bentley have attached to this complaint their “venue affidavits.” *See Ex. 2.*

14 271. Pursuant to California Civil Code §§ 1780(a) and 1782(d), Plaintiff
15 Hammock, Plaintiff Bentley, and the California Class seek an order of this Court
16 awarding Plaintiff Hammock, Plaintiff Bentley and the Class prospective and
17 retrospective injunctive relief, restitution, disgorgement, damages, punitive damages
18 and attorneys' fees and costs.

COUNT XIV

**VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW
(CAL. BUS. & PROF. CODE §§ 17500, ET SEQ.)**

272. Plaintiffs and the Class members incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

273. Plaintiffs Hammock and Bentley bring this fourteenth cause of action individually and on behalf of the members of the California Class against Defendants for Defendants' violation of California False Advertising Law and similar laws in other states.

1 274. Plaintiffs Hammock and Bentley have standing to pursue this claim as
2 Plaintiffs have suffered injury in fact as a result of Defendants' actions as set forth
3 herein. Specifically, prior to the filing of this action, Plaintiffs purchased the Products
4 in reliance upon Defendant's marketing claims. Plaintiffs used the Products as
5 directed, but the Products have not worked as advertised, nor provided any of the
6 promised benefits.

7 275. Defendants' business practices as alleged herein constitute unfair,
8 deceptive, untrue, and misleading advertising pursuant to California Business and
9 Professions Code section 17500, *et seq.* because Defendants advertised the Products
10 Hammock and Bentley purchased in a manner that is untrue and misleading, and that
11 is known or reasonably should have been known to Defendants to be untrue or
12 misleading.

13 276. Defendants' wrongful business practices have caused injury to Plaintiffs
14 and the Class.

15 277. Pursuant to section 17535 of the California Business and Professions
16 Code, Plaintiff s Hammock and Bentley as well as the California Class seek an order
17 of this court enjoining Defendants from continuing to engage in deceptive business
18 practices, false advertising, and any other act prohibited by law, including those set
19 forth in the complaint.

20 278. Plaintiffs Hammock and Bentley also seek an order for the disgorgement
21 and restitution of all monies from the sale of the Products which were unjustly
22 acquired through acts of unlawful, unfair, and/or fraudulent competition and
23 attorneys' fees and costs.

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COUNT XV
**VIOLATION OF FLORIDA'S DECEPTIVE AND UNFAIR TRADE
PRACTICES ACT**
(FLA. STAT. § 501.201 *et seq.*)

279. Plaintiffs and the Class members incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

280. Plaintiff Love brings this fifteenth cause of action individually and on behalf of the members of the Florida Class against Defendants.

281. This cause of action is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. § 501.201 *et seq.* (“FDUTPA”) and similar consumer fraud laws in other states.

282. The purpose of FDUPTA is to “protect the consuming public...from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade of commerce.” Fla. Stat. Ann § 501 202(2).

283. Plaintiff Love and the members of the Class are consumers as defined by Fla. Stat. § 501.203. The Products are goods within the meaning of FDUPTA. Defendants are engaged in trade or commerce within the meaning of FDUPTA.

284. Fla. Stat. § 501.204(1) declares unlawful “[u]nfair methods of competition, unconscionable acts or practices, and unfair and deceptive acts or practices in the conduct of any trade or commerce.”

285. Fla. Stat. § 501.204(2) states that “due consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to [section] 5(a)(1) of the Federal Trade Commission Act.”

286. Federal decisions provide that “a deceptive practice is one that is likely to mislead consumers.” *Jovine v. Abbott Labs., Inc.*, 2011 U.S. Dist. LEXIS 39702, 2011 WL 1376029 (S.D. Fla. Apr. 12, 2011) (quoting *Davis v. Powertel*, 776 So.2d 971, 974 (Fla. Dist. Ct. App. 2000)). The Fourth District Court of Florida has held

1 that an unfair practice is one that “offends established public policy and one that is
 2 immoral, unethical, oppressive, unscrupulous, or substantially injurious to
 3 consumers.” *Yachting Promotions, Inc. v. Broward Yachts, Inc.*, 792 So.2d 600, 664
 4 (Fla. 4th DCA 2001).

5 287. Defendants’ unfair and deceptive practices are likely to mislead, and have
 6 misled, Plaintiff Love and Class members who purchased the Products.

7 288. Further, Defendants have violated the FDUPTA by engaging in the unfair
 8 and deceptive practices as described herein which offend public policies and are
 9 immoral, unethical, unscrupulous and substantially injurious to consumers.

10 289. Plaintiff Love and the Class have been aggrieved by Defendant’s unfair
 11 and deceptive practices in that they paid for the Products but the Products were not as
 12 represented to them because they did not provide the advertised symptom relief.

13 290. The damages suffered by Plaintiff Love and the Class were directly and
 14 proximately caused by the deceptive, misleading and unfair practices of the
 15 Defendants, as more fully described above.

16 291. Pursuant to Fla. Stat. § 501.211(1), Plaintiff Love and the Class seek a
 17 declaratory judgment and court order for restitution and disgorgement.

18 292. Additionally, pursuant to Fla. Stat. §§ 501.211(2) and 501.2105, Plaintiff
 19 Love and the Class make claims for damages, attorneys’ fees and costs. Plaintiffs also
 20 seek all other available remedies as allowed by law.

PRAYER FOR RELIEF

22 Wherefore, Plaintiffs, on behalf of themselves, all others similarly situated and
 23 the general public, pray for judgment against Defendants as to each and every cause of
 24 action, including:

- 25 A. An order declaring this action to be a proper Class Action,
 26 appointing the Law Offices of Ronald A. Marron as Class
 27 Counsel, Plaintiffs as Class Representatives, and requiring
 28 Defendants to bear the costs of class notice;

- 1 B. An order awarding Plaintiffs and the proposed Class members
2 damages, and punitive damages in the amount to be determined at
3 trial;
- 4 C. An order awarding restitution and disgorgement of Defendants'
5 revenues from the Products to Plaintiffs and the proposed Class
6 members;
- 7 D. An order awarding attorneys' fees and costs to Plaintiffs;
- 8 E. An order awarding Plaintiffs an incentive award if appointed class
9 representatives;
- 10 F. An order awarding declaratory relief, retrospective and
11 prospective injunctive relief as permitted by law or equity,
12 including enjoining Defendants from continuing the unlawful
13 practices as set forth herein, and injunctive relief to remedy
14 Defendant's past conduct;
- 15 G. An order compelling Defendants to engage in a corrective
16 advertising campaign to inform the public concerning the true
17 nature of the Products, including a recall of the falsely and
18 deceptively labeled Products.
- 19 H. An order providing for all other such equitable relief as may be
20 just and proper.

22 **JURY DEMAND**

23 Plaintiffs hereby demand a trial by jury on all issues so triable.

1
2 Dated: September 15, 2015
3

/s/ Ronald A. Marron
RONALD A. MARRON

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5 **LAW OFFICES OF RONALD A. MARRON**
6 651 Arroyo Drive
7 San Diego, California 92103
Telephone: (619) 696-9006
Facsimile: (619) 564-6665

8 *Attorney for Plaintiffs and the Proposed Class*
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TABLE OF EXHIBITS

1	Plaintiffs' demand letter regarding breach of warranty claims and violations of the Consumers Legal Remedies Act.
2	Affidavits of Venue Pursuant to California Civil Code § 1780(d)